

# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS  
ENACTED DURING THE SECOND SESSION OF THE  
NINETY-SEVENTH CONGRESS  
OF THE UNITED STATES OF AMERICA

1982

AND

PROCLAMATIONS

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VOLUME 96

IN TWO PARTS

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PART 1

PUBLIC LAWS 97-146 THROUGH 97-301



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## CONTENTS

### PART 1

	Page
LIST OF BILLS ENACTED INTO PUBLIC LAW .....	v
LIST OF PUBLIC LAWS .....	ix
LIST OF BILLS ENACTED INTO PRIVATE LAW .....	xxxiii
LIST OF PRIVATE LAWS .....	xxxv
LIST OF CONCURRENT RESOLUTIONS .....	xxxvii
LIST OF PROCLAMATIONS .....	xxxix
PUBLIC LAWS (97-146 THROUGH 97-301) .....	3
SUBJECT INDEX .....	A1
INDIVIDUAL INDEX .....	B1

### PART 2

	Page
LIST OF BILLS ENACTED INTO PUBLIC LAW .....	v
LIST OF PUBLIC LAWS .....	ix
LIST OF BILLS ENACTED INTO PRIVATE LAW .....	xxxiii
LIST OF PRIVATE LAWS .....	xxxv
LIST OF CONCURRENT RESOLUTIONS .....	xxxvii
LIST OF PROCLAMATIONS .....	xxxix
PUBLIC LAWS (97-302 THROUGH 97-473) .....	1407
PRIVATE LAWS .....	2617
CONCURRENT RESOLUTIONS .....	2639
PROCLAMATIONS .....	2683
SUBJECT INDEX .....	A1
INDIVIDUAL INDEX .....	B1

# LIST OF BILLS ENACTED INTO PUBLIC LAW

THE NINETY-SEVENTH CONGRESS OF THE UNITED STATES  
SECOND SESSION, 1982

---

Bill No.	Public Law No.	Bill No.	Public Law No.	Bill No.	Public Law No.
H.R. 4.....	97-200	H.R. 4623.....	97-295	H.R. 6088.....	97-185
H.R. 1281.....	97-340	H.R. 4625.....	97-155	H.R. 6055.....	97-354
H.R. 1486.....	97-333	H.R. 4647.....	97-246	H.R. 6056.....	97-448
H.R. 1526.....	97-255	H.R. 4688.....	97-226	H.R. 6068.....	97-269
H.R. 1710.....	97-263	H.R. 4717.....	97-362	H.R. 6094.....	97-456
H.R. 1952.....	97-396	H.R. 4769.....	97-192	H.R. 6120.....	97-416
H.R. 2035.....	97-312	H.R. 4828.....	97-360	H.R. 6128.....	97-258
H.R. 2160.....	97-244	H.R. 4903.....	97-213	H.R. 6132.....	97-199
H.R. 2329.....	97-385	H.R. 4935.....	97-222	H.R. 6133.....	97-304
H.R. 2330.....	97-415	H.R. 4961.....	97-248	H.R. 6142.....	97-358
H.R. 2475.....	97-426	H.R. 5002.....	97-453	H.R. 6156.....	97-303
H.R. 2528.....	97-332	H.R. 5021.....	97-152	H.R. 6164.....	97-325
H.R. 2863.....	97-179	H.R. 5027.....	97-430	H.R. 6168.....	97-297
H.R. 3112.....	97-205	H.R. 5029.....	97-450	H.R. 6170.....	97-364
H.R. 3239.....	97-259	H.R. 5081.....	97-288	H.R. 6188.....	97-338
H.R. 3278.....	97-337	H.R. 5121.....	97-451	H.R. 6198.....	97-215
H.R. 3345.....	97-256	H.R. 5139.....	97-357	H.R. 6204.....	97-390
H.R. 3420.....	97-468	H.R. 5145.....	97-346	H.R. 6211.....	97-424
H.R. 3467.....	97-339	H.R. 5154.....	97-296	H.R. 6243.....	97-436
H.R. 3517.....	97-271	H.R. 5161.....	97-466	H.R. 6254.....	97-418
H.R. 3589.....	97-287	H.R. 5204.....	97-397	H.R. 6260.....	97-247
H.R. 3620.....	97-268	H.R. 5228.....	97-351	H.R. 6267.....	97-320
H.R. 3663.....	97-261	H.R. 5238.....	97-414	H.R. 6273.....	97-331
H.R. 3731.....	97-458	H.R. 5288.....	97-278	H.R. 6276.....	97-328
H.R. 3787.....	97-361	H.R. 5380.....	97-234	H.R. 6350.....	97-251
H.R. 3809.....	97-425	H.R. 5432.....	97-201	H.R. 6403.....	97-371
H.R. 3816.....	97-212	H.R. 5447.....	97-444	H.R. 6409.....	97-254
H.R. 3863.....	97-206	H.R. 5456.....	97-432	H.R. 6417.....	97-379
H.R. 3881.....	97-302	H.R. 5470.....	97-473	H.R. 6419.....	97-435
H.R. 3942.....	97-389	H.R. 5553.....	97-376	H.R. 6422.....	97-311
H.R. 4001.....	97-428	H.R. 5566.....	97-202	H.R. 6451.....	97-214
H.R. 4347.....	97-273	H.R. 5658.....	97-313	H.R. 6454.....	97-298
H.R. 4364.....	97-386	H.R. 5659.....	97-203	H.R. 6519.....	97-437
H.R. 4441.....	97-366	H.R. 5662.....	97-347	H.R. 6530.....	97-243
H.R. 4468.....	97-308	H.R. 5795.....	97-372	H.R. 6538.....	97-467
H.R. 4476.....	97-330	H.R. 5879.....	97-363	H.R. 6588.....	97-391
H.R. 4482.....	97-164	H.R. 5890.....	97-324	H.R. 6590.....	97-218
H.R. 4491.....	97-447	H.R. 5916.....	97-434	H.R. 6631.....	97-208
H.R. 4496.....	97-429	H.R. 5930.....	97-309	H.R. 6663.....	97-227
H.R. 4566.....	97-446	H.R. 5941.....	97-314	H.R. 6679.....	97-461
H.R. 4568.....	97-431	H.R. 6005.....	97-375	H.R. 6685.....	97-216
H.R. 4569.....	97-207	H.R. 6029.....	97-356	H.R. 6732.....	97-249
H.R. 4613.....	97-365	H.R. 6033.....	97-245	H.R. 6758.....	97-392

## LIST OF BILLS ENACTED INTO PUBLIC LAW

Bill No.	Public Law No.	Bill No.	Public Law No.	Bill No.	Public Law No.
H.R. 6782	97-306	H.J. Res. 568	97-281	S. 2177	97-373
H.R. 6804	97-417	H.J. Res. 588	97-315	S. 2218	97-232
H.R. 6863	97-257	H.J. Res. 595	97-368	S. 2240	97-221
H.R. 6865	97-352	H.J. Res. 599	97-276	S. 2244	97-176
H.R. 6946	97-398	H.J. Res. 612	97-289	S. 2248	97-252
H.R. 6955	97-253	H.J. Res. 619	97-420	S. 2252	97-322
H.R. 6956	97-272	H.J. Res. 630	97-421	S. 2254	97-160
H.R. 6968	97-323	H.J. Res. 631	97-377	S. 2271	97-286
H.R. 6976	97-292	H.J. Res. 635	97-469	S. 2273	97-464
H.R. 6993	97-449			S. 2317	97-231
H.R. 7005	97-439			S. 2332	97-229
H.R. 7019	97-369	S. 146	97-184	S. 2333	97-171
H.R. 7065	97-274	S. 187	97-401	S. 2355	97-410
H.R. 7072	97-370	S. 188	97-305	S. 2373	97-175
H.R. 7093	97-455	S. 266	97-174	S. 2375	97-336
H.R. 7102	97-470	S. 478	97-344	S. 2386	97-326
H.R. 7115	97-342	S. 503	97-459	S. 2405	97-283
H.R. 7143	97-438	S. 625	97-405	S. 2420	97-291
H.R. 7144	97-378	S. 634	97-168	S. 2436	97-329
H.R. 7154	97-462	S. 691	97-180	S. 2457	97-334
H.R. 7155	97-399	S. 705	97-465	S. 2535	97-191
H.R. 7159	97-440	S. 734	97-290	S. 2574	97-327
H.R. 7292	97-367	S. 764	97-374	S. 2575	97-190
H.R. 7293	97-310	S. 816	97-393	S. 2582	97-264
H.R. 7316	97-433	S. 823	97-395	S. 2586	97-321
H.R. 7356	97-394	S. 881	97-219	S. 2611	97-387
H.R. 7377	97-400	S. 892	97-162	S. 2651	97-217
H.R. 7378	97-452	S. 896	97-197	S. 2706	97-230
H.R. 7406	97-423	S. 907	97-285	S. 2710	97-384
H.R. 7410	97-454	S. 923	97-267	S. 2852	97-301
H.R. 7420	97-422	S. 1018	97-348	S. 2863	97-463
H.R. 7423	97-427	S. 1119	97-250	S. 2874	97-307
		S. 1131	97-177	S. 2955	97-411
		S. 1193	97-241	S. 3073	97-388
H.J. Res. 207	97-299	S. 1210	97-350	S. 3103	97-412
H.J. Res. 225	97-223	S. 1230	97-220	S. 3105	97-471
H.J. Res. 230	97-209	S. 1340	97-402	S. 3113	97-404
H.J. Res. 272	97-165	S. 1409	97-293		
H.J. Res. 348	97-158	S. 1444	97-380	S.J. Res. 53	97-187
H.J. Res. 361	97-181	S. 1501	97-406	S.J. Res. 59	97-188
H.J. Res. 373	97-157	S. 1519	97-211	S.J. Res. 67	97-172
H.J. Res. 382	97-146	S. 1540	97-460	S.J. Res. 91	97-153
H.J. Res. 389	97-147	S. 1573	97-345	S.J. Res. 95	97-224
H.J. Res. 391	97-148	S. 1611	97-186	S.J. Res. 101	97-441
H.J. Res. 409	97-161	S. 1628	97-275	S.J. Res. 102	97-169
H.J. Res. 410	97-170	S. 1681	97-381	S.J. Res. 105	97-154
H.J. Res. 412	97-178	S. 1698	97-359	S.J. Res. 113	97-316
H.J. Res. 435	97-167	S. 1735	97-403	S.J. Res. 122	97-150
H.J. Res. 444	97-225	S. 1777	97-335	S.J. Res. 123	97-240
H.J. Res. 447	97-166	S. 1808	97-195	S.J. Res. 131	97-194
H.J. Res. 448	97-173	S. 1872	97-341	S.J. Res. 134	97-149
H.J. Res. 459	97-445	S. 1894	97-382	S.J. Res. 140	97-198
H.J. Res. 486	97-284	S. 1937	97-163	S.J. Res. 142	97-151
H.J. Res. 494	97-233	S. 1965	97-407	S.J. Res. 145	97-183
H.J. Res. 496	97-277	S. 1986	97-408	S.J. Res. 148	97-156
H.J. Res. 516	97-239	S. 2034	97-383	S.J. Res. 149	97-193
H.J. Res. 518	97-210	S. 2036	97-300	S.J. Res. 160	97-189
H.J. Res. 519	97-204	S. 2059	97-409	S.J. Res. 165	97-280
H.J. Res. 520	97-270	S. 2073	97-242	S.J. Res. 170	97-182
H.J. Res. 526	97-228	S. 2154	97-238	S.J. Res. 174	97-282
H.J. Res. 541	97-237	S. 2166	97-159		

## LIST OF BILLS ENACTED INTO PUBLIC LAW

vii

Bill No.	Public Law No.	Bill No.	Public Law No.	Bill No.	Public Law No.
S.J. Res. 183 .....	97-236	S.J. Res. 235 .....	97-318	S.J. Res. 258 .....	97-419
S.J. Res. 186 .....	97-265	S.J. Res. 239 .....	97-294	S.J. Res. 260 .....	97-472
S.J. Res. 190 .....	97-235	S.J. Res. 240 .....	97-442	S.J. Res. 261 .....	97-349
S.J. Res. 193 .....	97-279	S.J. Res. 241 .....	97-343	S.J. Res. 262 .....	97-355
S.J. Res. 194 .....	97-260	S.J. Res. 249 .....	97-319	S.J. Res. 264 .....	97-443
S.J. Res. 197 .....	97-317	S.J. Res. 250 .....	97-262	S.J. Res. 270 .....	97-413
S.J. Res. 201 .....	97-196	S.J. Res. 257 .....	97-353	S.J. Res. 271 .....	97-457
S.J. Res. 205 .....	97-266				

# LIST OF PUBLIC LAWS

## CONTAINED IN THIS VOLUME

Public Law		Date	Page
97-146 .....	<i>"Let Poland Be Poland: Day of Solidarity With the People of Poland;" broadcast release in U.S., permit. JOINT RESOLUTION To permit the broadcasting in the United States of the International Communication Agency film "Let Poland Be Poland: A Day of Solidarity With the People of Poland"</i> .....	Jan. 30, 1982.....	3
97-147 .....	<i>Supplemental appropriation, 1982. JOINT RESOLUTION Making an urgent supplemental appropriation for the fiscal year ending September 30, 1982, for the Department of Agriculture</i> .....	Feb. 15, 1982.....	4
97-148 .....	<i>Labor Department, supplemental appropriation, 1982. JOINT RESOLUTION Making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982</i> .....	Feb. 22, 1982.....	5
97-149 .....	<i>National Year of Disabled Persons, 1982. JOINT RESOLUTION To designate 1982 as the "National Year of Disabled Persons"</i> .....	Feb. 26, 1982.....	6
97-150 .....	<i>National Construction Industry Week. JOINT RESOLUTION To authorize and request the President to designate the week of February 28, 1982, through March 6, 1982, as "National Construction Industry Week"</i> .....	Mar. 1, 1982.....	8
97-151 .....	<i>Afghanistan Day. JOINT RESOLUTION To authorize and request the President to issue a proclamation designating March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces</i> .....	Mar. 10, 1982.....	9
97-152 .....	<i>Commission on Wartime Relocation and Internment of Civilians, report to Congress, extension. AN ACT To extend the date for the submission to the Congress of the report of the Commission on Wartime Relocation and Internment of Civilians</i> .....	Mar. 16, 1982.....	11
97-153 .....	<i>National Peach Month. JOINT RESOLUTION To designate July 1982 as "National Peach Month"</i> .....	Mar. 16, 1982.....	12
97-154 .....	<i>National P.T.A. Membership Month. JOINT RESOLUTION To designate October 1982 as "National P.T.A. Membership Month"</i> .....	Mar. 16, 1982.....	13
97-155 .....	<i>Federal Republic of Germany, return of certain seized works of art. AN ACT To authorize the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the United States Army at the end of World War II</i> .....	Mar. 17, 1982.....	14
97-156 .....	<i>National Agriculture Day. JOINT RESOLUTION To proclaim March 18, 1982, as "National Agriculture Day"</i> .....	Mar. 18, 1982.....	15

Public Law		Date	Page
97-157	<i>United Nations Commission on Human Rights, Geneva, 1982 United States delegation. JOINT RESOLUTION</i> Expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the thirty-eighth meeting of the United Nations Commission on Human Rights at Geneva in February 1982.....	Mar. 22, 1982.....	16
97-158	<i>Her Majesty Queen Beatrix of the Netherlands, gold medal. JOINT RESOLUTION</i> To provide for the awarding of a special gold medal to Her Majesty Queen Beatrix in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between the Netherlands and the United States .....	Mar. 22, 1982.....	18
97-159	<i>"Montana: The People Speak," broadcast distribution in U.S. AN ACT</i> To provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak" .....	Mar. 24, 1982.....	20
97-160	<i>Federal Employees Flexible and Compressed Work Schedules Act of 1978, extension. AN ACT</i> To temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.....	Mar. 26, 1982.....	21
97-161	<i>Further continuing appropriations for fiscal year 1982. JOINT RESOLUTION</i> Making further continuing appropriations for the fiscal year 1982.....	Mar. 31, 1982.....	22
97-162	<i>Federal Grant and Cooperative Agreement Act, amendment. AN ACT</i> To amend the Federal Grant and Cooperative Agreement Act.....	Apr. 1, 1982.....	23
97-163	<i>Energy Policy and Conservation Act, extension. AN ACT</i> To extend the expiration date of section 252 of the Energy Policy and Conservation Act .....	Apr. 1, 1982.....	24
97-164	<i>Federal Courts Improvement Act of 1982. AN ACT</i> To establish a United States Court of Appeals for the Federal Circuit, to establish a United States Claims Court, and for other purposes .....	Apr. 2, 1982.....	25
97-165	<i>National Medic Alert Week. JOINT RESOLUTION</i> To authorize and request the President to issue a proclamation designating April 4 through 10, 1982, "National Medic Alert Week" .....	Apr. 3, 1982.....	59
97-166	<i>National Day of Reflection. JOINT RESOLUTION</i> To authorize and request the President to issue a proclamation designating April 4, 1982, as the "National Day of Reflection".....	Apr. 3, 1982.....	60
97-167	<i>American Salute to Cabanatuan Prisoner of War Memorial Day. JOINT RESOLUTION</i> Providing for the designation of April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day".....	Apr. 6, 1982.....	61
97-168	<i>Idaho and Wyoming, land exchange. AN ACT</i> To authorize the exchange of certain lands in Idaho and Wyoming.....	Apr. 6, 1982.....	63
97-169	<i>Parliamentary Emphasis Month. JOINT RESOLUTION</i> To authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month" .....	Apr. 6, 1982.....	65
97-170	<i>Dutch-American Friendship Day. JOINT RESOLUTION</i> To designate April 19, 1982, as "Dutch-American Friendship Day" .....	Apr. 12, 1982.....	66

# LIST OF PUBLIC LAWS

xi

Public Law		Date	Page
97-171 .....	<i>United States Government officer or employee injured during an assassination attempt, contributions.</i> AN ACT To amend section 209 of title 18, United States Code, to permit an officer or employee of the United States Government, injured during an assassination attempt, to receive contributions from charitable organizations .....	Apr. 13, 1982.....	67
97-172 .....	<i>National Nurse-Midwifery Week.</i> JOINT RESOLUTION To establish National Nurse-Midwifery Week ..	Apr. 16, 1982.....	68
97-173 .....	<i>Jewish Heritage Week.</i> JOINT RESOLUTION To authorize and request the President to issue a proclamation designating April 25 through May 2, 1982, as "Jewish Heritage Week" .....	Apr. 28, 1982.....	69
97-174 .....	<i>Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act.</i> AN ACT To amend title 38, United States Code, to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense and to direct the Secretary of Defense and the Administrator of Veterans' Affairs to plan for the provision of health care by the Veterans' Administration during periods of war or national emergency to members of the Armed Forces on active duty; and for other purposes.....	May 4, 1982.....	70
97-175 .....	<i>White Sands Space Harbor, designation.</i> AN ACT To change the name of the landing strip at White Sands Missile Range in the State of New Mexico, to "White Sands Space Harbor" .....	May 11, 1982.....	77
97-176 .....	<i>Northern Pacific Halibut Act of 1982.</i> AN ACT To give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979.....	May 17, 1982.....	78
97-177 .....	<i>Prompt Payment Act.</i> AN ACT To require the Federal Government to pay interest on overdue payments, and for other purposes .....	May 21, 1982.....	85
97-178 .....	<i>Amelia Earhart Day.</i> JOINT RESOLUTION To authorize and request the President to designate May 20, 1982, as "Amelia Earhart Day" .....	May 21, 1982.....	89
97-179 .....	<i>Tahoe National Park, Blyth Arena.</i> AN ACT To authorize the Secretary of Agriculture to sell the portion of the Tahoe National Forest known as Blyth Arena .....	May 24, 1982.....	90
97-180 .....	<i>Piracy and Counterfeiting Amendments Act of 1982.</i> AN ACT To amend titles 18 and 17 of the United States Code to strengthen the laws against record, tape, and film piracy and counterfeiting, and for other purposes .....	May 24, 1982.....	91
97-181 .....	<i>International ballet competition.</i> JOINT RESOLUTION To grant official recognition to the international ballet competition .....	May 24, 1982.....	94
97-182 .....	<i>National Hospice Week.</i> JOINT RESOLUTION To designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week" .....	May 24, 1982.....	95
97-183 .....	<i>National Orchestra Week.</i> JOINT RESOLUTION Authorizing and requesting the President to proclaim "National Orchestra Week" .....	May 24, 1982.....	97
97-184 .....	<i>Camden, S.C., historic preservation.</i> AN ACT To authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes .....	May 24, 1982.....	99
97-185 .....	<i>National Housing Act, amendment.</i> AN ACT To amend section 235 of the National Housing Act.....	May 24, 1982.....	100

Public Law		Date	Page
97-186	<i>District of Columbia property, use for an international center.</i> AN ACT To amend Public Law 90-553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes.....	May 25, 1982.....	101
97-187	<i>Working Mothers' Day.</i> JOINT RESOLUTION To provide for the designation of September 5, 1982, as "Working Mothers' Day".....	June 1, 1982.....	103
97-188	<i>National folk dance, designation.</i> JOINT RESOLUTION Designating the square dance as the national folk dance of the United States.....	June 1, 1982.....	104
97-189	<i>National P.O.W./M.I.A. Recognition Day.</i> JOINT RESOLUTION To provide for the designation of July 9, 1982, and April 9, 1983, as "National P.O.W./M.I.A. Recognition Day".....	June 1, 1982.....	105
97-190	<i>Energy Policy and Conservation Act, extension.</i> AN ACT To extend the expiration date of section 252 of the Energy Policy and Conservation Act.....	June 1, 1982.....	106
97-191	<i>Foreign fish processing vessels within State waters, regulation.</i> AN ACT To regulate the operation of foreign fish processing vessels within State waters.....	June 1, 1982.....	107
97-192	<i>American Council of Learned Societies, charter.</i> AN ACT To recognize the organization known as the American Council of Learned Societies.....	June 1, 1982.....	109
97-193	<i>National Child Abuse Prevention Week.</i> JOINT RESOLUTION To designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week".....	June 15, 1982.....	112
97-194	<i>National Theatre Week.</i> JOINT RESOLUTION Designating "National Theatre Week".....	June 16, 1982.....	114
97-195	<i>Under Secretary of Commerce for Economic Affairs.</i> AN ACT To authorize an Under Secretary of Commerce for Economic Affairs.....	June 16, 1982.....	115
97-196	<i>Baltic Freedom Day.</i> JOINT RESOLUTION Designating "Baltic Freedom Day".....	June 18, 1982.....	117
97-197	<i>Omlie Tower, designation.</i> AN ACT To designate the control tower at Memphis International Airport the Omlie Tower.....	June 21, 1982.....	119
97-198	<i>National Inventors' Day.</i> JOINT RESOLUTION Designating February 11, 1983, "National Inventors' Day".....	June 21, 1982.....	120
97-199	<i>Smithsonian Institution funds deposited with the U.S. Treasury, rate adjustment.</i> AN ACT To amend section 5590 of the Revised Statutes to provide for adjusting the rate of interest paid on funds of the Smithsonian Institution deposited with the Treasury of the United States as a permanent loan.....	June 22, 1982.....	121
97-200	<i>Intelligence Identities Protection Act of 1982.</i> AN ACT To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.....	June 23, 1982.....	122
97-201	<i>Admiral Hyman George Rickover, commemorative medal.</i> AN ACT To authorize the presentation on behalf of the Congress of a specially struck gold medal to Admiral Hyman George Rickover.....	June 23, 1982.....	126
97-202	<i>John F. Kennedy Center for the Performing Arts, appropriation authorization.</i> AN ACT Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.....	June 24, 1982.....	128



# LIST OF PUBLIC LAWS

xiii

Public Law		Date	Page
97-203 .....	<i>National Museum of African Art and Eastern art center, authorization.</i> An ACT To authorize the Smithsonian Institution to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.	June 24, 1982.....	129
97-204 .....	<i>Public debt limit, temporary increase.</i> JOINT RESOLUTION To provide for a temporary increase in the public debt limit .....	June 28, 1982.....	130
97-205 .....	<i>Voting Rights Act Amendments of 1982.</i> AN ACT To amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.....	June 29, 1982.....	131
97-206 .....	<i>Poultry Products Inspection Act, amendment.</i> AN ACT To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes.....	June 30, 1982.....	136
97-207 .....	<i>William R. Cotter Federal Building, designation.</i> AN ACT To designate the United States Post Office Building in Hartford, Connecticut, as the "William R. Cotter Federal Building" .....	June 30, 1982.....	137
97-208 .....	<i>Lebanon, humanitarian assistance.</i> AN ACT To authorize humanitarian assistance for the people of Lebanon .....	June 30, 1982.....	138
97-209 .....	<i>Dr. Semyon Gluzman and family, emigration to Israel.</i> JOINT RESOLUTION Imploring the Union of Soviet Socialist Republics to allow Doctor Semyon Gluzman and his family to emigrate to Israel .....	June 30, 1982.....	139
97-210 .....	<i>National NCO/Petty Officer Week.</i> JOINT RESOLUTION To designate the week commencing with the fourth Monday in June 1982 as "National NCO/Petty Officer Week" .....	June 30, 1982.....	140
97-211 .....	<i>National Wildlife Refuge System, North Cudjoe Key, Fla., inclusion; Raccoon Key, Fla., exclusion.</i> AN ACT To designate certain national wildlife refuge lands .....	June 30, 1982.....	141
97-212 .....	<i>Fishermen's Contingency Fund, improvement.</i> AN ACT To improve the operation of the Fishermen's Contingency Fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf .....	June 30, 1982.....	143
97-213 .....	<i>Mississippi-Louisiana Rapid Rail Transit Compact, congressional consent.</i> AN ACT Granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail transit service between the two States.....	June 30, 1982.....	150
97-214 .....	<i>Military Construction Codification Act.</i> AN ACT To amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.....	July 12, 1982.....	153
97-215 .....	<i>Copyright law, amendment.</i> AN ACT To amend the manufacturing clause of the copyright law .....	July 13, 1982.....	178
97-216 .....	<i>Urgent Supplemental Appropriations Act, 1982.</i> AN ACT Making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes .....	July 18, 1982.....	180
97-217 .....	<i>Energy Policy and Conservation Act, extension.</i> AN ACT To extend the expiration date of section 252 of the Energy Policy and Conservation Act .....	July 19, 1982.....	196

Public Law		Date	Page
97-218 .....	<i>No Net Cost Tobacco Program Act of 1982.</i> AN ACT To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.....	July 20, 1982.....	197
97-219 .....	<i>Small Business Innovation Development Act of 1982.</i> AN ACT To amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.....	July 22, 1982.....	217
97-220 .....	<i>Olympic Commemorative Coin Act.</i> AN ACT To provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.....	July 22, 1982.....	222
97-221 .....	<i>Federal Employees Flexible and Compressed Work Schedules Act of 1982.</i> AN ACT To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.....	July 23, 1982.....	227
97-222 .....	<i>Bankruptcy, amendment.</i> AN ACT To amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities .....	July 27, 1982.....	235
97-223 .....	<i>Management Week in America.</i> JOINT RESOLUTION To designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America" .....	July 27, 1982.....	242
97-224 .....	<i>Franklin Delano Roosevelt Memorial, construction.</i> JOINT RESOLUTION To authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes .....	July 28, 1982.....	243
97-225 .....	<i>National Navaho Code Talkers Day.</i> JOINT RESOLUTION To authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day".....	July 28, 1982.....	244
97-226 .....	<i>Military Personnel and Civilian Employees' Claims Act of 1964, amendments.</i> AN ACT To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from \$15,000 to \$25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act.....	July 28, 1982.....	245
97-227 .....	<i>Federal Rules of Civil Procedure, delay of effective date.</i> AN ACT To delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.....	Aug. 2, 1982.....	246
97-228 .....	<i>National Purple Heart Week.</i> JOINT RESOLUTION Authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week" .....	Aug. 2, 1982.....	247
97-229 .....	<i>Energy Emergency Preparedness Act of 1982.</i> AN ACT To amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes .....	Aug. 3, 1982.....	248

# LIST OF PUBLIC LAWS

xv

Public Law		Date	Page
97-230 .....	<i>U.S. magistrates; bar membership requirements, modification.</i> AN ACT To amend title 28, United States Code, to modify the bar membership requirements for United States magistrates .....	Aug. 6, 1982.....	255
97-231 .....	<i>National Federation of Music Clubs, charter.</i> AN ACT To recognize the organization known as the National Federation of Music Clubs .....	Aug. 9, 1982.....	256
97-232 .....	<i>Gateway National Recreation Area, improvement.</i> AN ACT To provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.....	Aug. 9, 1982.....	259
97-233 .....	<i>El Salvador, Presidential certifications on conditions.</i> JOINT RESOLUTION With regard to Presidential certifications on conditions in El Salvador .....	Aug. 10, 1982.....	260
97-234 .....	<i>American Ex-Prisoners of War, charter.</i> AN ACT To recognize the organization known as American Ex-Prisoners of War .....	Aug. 10, 1982.....	261
97-235 .....	<i>National Family Week.</i> JOINT RESOLUTION To authorize and request the President to designate "National Family Week" .....	Aug. 16, 1982.....	265
97-236 .....	<i>Lupus Awareness Week.</i> JOINT RESOLUTION To authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week" .....	Aug. 17, 1982.....	266
97-237 .....	<i>Space Shuttle test flight period.</i> JOINT RESOLUTION Concerning the successful completion of the test flight phase of the Space Shuttle program .....	Aug. 20, 1982.....	267
97-238 .....	<i>Christian County, Ky., reversionary land interest, release.</i> AN ACT To direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Kentucky, so that such lands may be used for cemetery purposes .....	Aug. 20, 1982.....	269
97-239 .....	<i>National Coin Week.</i> JOINT RESOLUTION To provide for the designation of April 17 to April 23, 1983, as "National Coin Week" .....	Aug. 20, 1982.....	271
97-240 .....	<i>National Disabled Veterans Week.</i> JOINT RESOLUTION Authorizing and requesting the President to proclaim "National Disabled Veterans Week" .....	Aug. 20, 1982.....	272
97-241 .....	<i>Department of State, the International Communication Agency, and the Board for International Broadcasting, appropriation authorizations.</i> AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes .....	Aug. 24, 1982.....	273
97-242 .....	<i>U.S. Postal Service, mail size and weight limitations; repeal.</i> AN ACT To repeal outdated size and weight limitations now imposed on the United States Postal Service.....	Aug. 24, 1982.....	300
97-243 .....	<i>Mount St. Helens National Volcanic Monument, Wash., designation.</i> AN ACT To designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes .....	Aug. 26, 1982.....	301
97-244 .....	<i>Potato Research and Promotion Act Amendments of 1982.</i> AN ACT To amend the Potato Research and Promotion Act .....	Aug. 26, 1982.....	310

Public Law		Date	Page
97-245 .....	<i>Historic Congressional Cemetery, Washington, D.C., preservation.</i> AN ACT Relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.....	Aug. 26, 1982.....	313
97-246 .....	<i>Fred Waring; Mrs. Joe Louis; and Louis L'Amour, gold medals.</i> AN ACT To award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour.....	Aug. 26, 1982.....	315
97-247 .....	<i>Patent and Trademark Office, appropriation authorization.</i> AN ACT To authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.....	Aug. 27, 1982.....	317
97-248 .....	<i>Tax Equity and Fiscal Responsibility Act of 1982.</i> AN ACT To provide for tax equity and fiscal responsibility, and for other purposes.....	Sept. 3, 1982.....	324
97-249 .....	<i>International Safe Container Act, amendment.</i> AN ACT To amend the International Safe Container Act.....	Sept. 8, 1982.....	708
97-250 .....	<i>Crater Lake National Park, Oreg., boundary corrections.</i> AN ACT To correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.....	Sept. 8, 1982.....	709
97-251 .....	<i>Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982.</i> AN ACT To amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.....	Sept. 8, 1982.....	711
97-252 .....	<i>Department of Defense Authorization Act, 1983.</i> AN ACT To authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.....	Sept. 8, 1982.....	718
97-253 .....	<i>Omnibus Budget Reconciliation Act of 1982.</i> AN ACT To provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress).....	Sept. 8, 1982.....	763
97-254 .....	<i>1984 Louisiana World Exposition; U.S. participation.</i> AN ACT To provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes.....	Sept. 8, 1982.....	808
97-255 .....	<i>Federal Managers' Financial Integrity Act of 1982.</i> AN ACT To amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes.....	Sept. 8, 1982.....	814
97-256 .....	<i>Patent and trademark laws and Civil Rights of Institutionalized Persons Act, amendments.</i> AN ACT To make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act.....	Sept. 8, 1982.....	816

# LIST OF PUBLIC LAWS

xvii

Public Law		Date	Page
97-257 .....	<i>Supplemental Appropriations Act, 1982.</i> AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes .....	Sept. 10, 1982.....	818
97-258 .....	<i>Money and Finance, enactment as title 31, United States Code.</i> AN ACT To revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance" .....	Sept. 13, 1982.....	877
97-259 .....	<i>Communications Act 1934, amendment.</i> AN ACT To amend the Communications Act of 1934, and for other purposes .....	Sept. 13, 1982.....	1087
97-260 .....	<i>Smithsonian Institution.</i> JOINT RESOLUTION To provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution .....	Sept. 18, 1982.....	1101
97-261 .....	<i>Bus Regulatory Reform Act of 1982.</i> AN ACT To amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers .....	Sept. 20, 1982.....	1102
97-262 .....	<i>Railway labor-management dispute, resolution.</i> JOINT RESOLUTION To provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes .....	Sept. 22, 1982.....	1130
97-263 .....	<i>Law Revision Counsel of the House of Representatives; use of frank for official mail.</i> AN ACT To authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives.....	Sept. 24, 1982.....	1132
97-264 .....	<i>Permanent Committee for the Oliver Wendell Holmes Devise, interest adjustment.</i> AN ACT To amend the Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes .....	Sept. 24, 1982.....	1133
97-265 .....	<i>National Cystic Fibrosis Week.</i> JOINT RESOLUTION To authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week" .....	Sept. 24, 1982.....	1134
97-266 .....	<i>National Sewing Month.</i> JOINT RESOLUTION To designate September 1982 as "National Sewing Month" .....	Sept. 24, 1982.....	1135
97-267 .....	<i>Pretrial Services Act of 1982.</i> AN ACT To amend chapter 207 of title 18, United States Code, relating to pretrial services.....	Sept. 27, 1982.....	1136
97-268 .....	<i>City of Hoboken, N.J.; transfer of certain Federal property.</i> AN ACT Transferring certain Federal property to the city of Hoboken, New Jersey .....	Sept. 27, 1982.....	1140
97-269 .....	<i>Intelligence and intelligence-related activities, appropriations authorization.</i> AN ACT To authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes .....	Sept. 27, 1982.....	1142
97-270 .....	<i>Public debt limit, temporary increase.</i> JOINT RESOLUTION To provide for a temporary increase in the public debt limit.....	Sept. 30, 1982.....	1156
97-271 .....	<i>Virgin Islands Nonimmigrant Alien Adjustment Act of 1982.</i> AN ACT To authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes .....	Sept. 30, 1982.....	1157

Public Law		Date	Page
97-272	<i>Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983.</i> AN ACT Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.....	Sept. 30, 1982.....	1160
97-273	<i>WEB Rural Water Development Project.</i> AN ACT To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.....	Sept. 30, 1982.....	1181
97-274	<i>Community Services Block Grant Act, amendment.</i> AN ACT To amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.....	Sept. 30, 1982.....	1183
97-275	<i>Emergency Fund Act, amendment.</i> AN ACT To amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052).....	Oct. 1, 1982.....	1185
97-276	<i>Continuing appropriations for fiscal year 1983.</i> JOINT RESOLUTION Making continuing appropriations for the fiscal year 1983, and for other purposes .....	Oct. 2, 1982.....	1186
97-277	<i>National Alzheimer's Disease Week.</i> JOINT RESOLUTION To provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week" .....	Oct. 4, 1982.....	1206
97-278	<i>New Hampshire and Vermont compact.</i> AN ACT Granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste .....	Oct. 4, 1982.....	1207
97-279	<i>National Respiratory Therapy Week.</i> JOINT RESOLUTION Designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week" .....	Oct. 4, 1982.....	1210
97-280	<i>Year of the Bible.</i> JOINT RESOLUTION Authorizing and requesting the President to proclaim 1983 as the "Year of the Bible" .....	Oct. 4, 1982.....	1211
97-281	<i>Dr. Robert H. Goddard Day.</i> JOINT RESOLUTION To provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day" .....	Oct. 5, 1982.....	1212
97-282	<i>World Food Day.</i> JOINT RESOLUTION To authorize and request the President to designate October 16, 1982, as "World Food Day" .....	Oct. 5, 1982.....	1213
97-283	<i>Cibola National Forest, N. Mex.; land exchange and boundary extension.</i> AN ACT To further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico .....	Oct. 5, 1982.....	1215
97-284	<i>National Schoolbus Safety Week of 1982.</i> JOINT RESOLUTION Authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982" .....	Oct. 5, 1982.....	1218
97-285	<i>Crimes against governmental officials, penalties.</i> AN ACT To amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes .....	Oct. 6, 1982.....	1219

# LIST OF PUBLIC LAWS

xix

Public Law		Date	Page
97-286 .....	<i>National Bureau of Standards Authorization Act for Fiscal Year 1982.</i> AN ACT To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes .....	Oct. 6, 1982.....	1222
97-287 .....	<i>Navajo Tribe, land exchange.</i> AN ACT To authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes .....	Oct. 6, 1982.....	1225
97-288 .....	<i>Washoe Tribe of Nevada-California lands in trust; other lands, transfer to U.S. Forest Service.</i> AN ACT To declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service .....	Oct. 6, 1982.....	1227
97-289 .....	<i>Housing and community development, extension of insurance programs.</i> JOINT RESOLUTION To provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes .....	Oct. 6, 1982.....	1230
97-290 .....	<i>Export trade services, expansion.</i> AN ACT To encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally .....	Oct. 8, 1982.....	1233
97-291 .....	<i>Victim and Witness Protection Act of 1982.</i> AN ACT To provide additional protections and assistance to victims and witnesses in Federal cases.....	Oct. 12, 1982.....	1248
97-292 .....	<i>Missing Children Act.</i> AN ACT To amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).....	Oct. 12, 1982.....	1259
97-293 .....	<i>Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyo.</i> AN ACT To authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.....	Oct. 12, 1982.....	1261
97-294 .....	<i>National Newspaper Carriers Appreciation Day.</i> JOINT RESOLUTION Designating October 16, 1982, as "National Newspaper Carriers Appreciation Day" .....	Oct. 12, 1982.....	1286
97-295 .....	<i>United States Code, titles 10, 14, 37, and 38, amendments.</i> AN ACT To amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code.....	Oct. 12, 1982.....	1287
97-296 .....	<i>Lanham Trademark Act, amendment.</i> AN ACT To amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.....	Oct. 12, 1982.....	1316
97-297 .....	<i>Threats against former Presidents and certain other persons, criminal penalty.</i> AN ACT To amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes...	Oct. 12, 1982.....	1317
97-298 .....	<i>Anti-Arson Act of 1982.</i> AN ACT To amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.....	Oct. 12, 1982.....	1319

## LIST OF PUBLIC LAWS

Public Law		Date	Page
97-299 .....	<i>Plaque honoring Joseph Rosenthal, United States Marine Corps War Memorial.</i> JOINT RESOLUTION To require the Secretary of the Interior to place a plaque at the United States Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial.....	Oct. 12, 1982.....	1320
97-300 .....	<i>Job Training Partnership Act.</i> AN ACT To provide for a job training program and for other purposes.....	Oct. 13, 1982.....	1322
97-301 .....	<i>Student Financial Assistance Technical Amendments Act of 1982.</i> AN ACT To require a separate family contribution schedule for Pell Grants for academic years 1983-1984 and 1984-1985, to establish restrictions upon the contents of such schedule, and for other purposes .....	Oct. 13, 1982.....	1400
97-302 .....	<i>Arkansas Forestry Commission; certain lands, conveyance.</i> AN ACT To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission..	Oct. 13, 1982.....	1407
97-303 .....	<i>Securities and Exchange Commission, jurisdiction clarification.</i> AN ACT To clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes .....	Oct. 13, 1982.....	1409
97-304 .....	<i>Endangered Species Act Amendments of 1982.</i> AN ACT To authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes .....	Oct. 13, 1982.....	1411
97-305 .....	<i>Gallatin National Forest, land conveyance.</i> AN ACT To authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes .....	Oct. 14, 1982.....	1428
97-306 .....	<i>Veterans' Compensation, Education, and Employment Amendments of 1982.</i> AN ACT To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children, and to modify and improve the educational assistance programs administered by the Veterans' Administration and the veterans' employment programs administered by the Department of Labor; and for other purposes.....	Oct. 14, 1982.....	1429
97-307 .....	<i>Migratory-bird hunting and conservation stamp contest.</i> AN ACT To amend the Act of March 16, 1934, as amended, to credit entrance fees for the migratory-bird hunting and conservation stamp contest to the account which pays for the administration of the contest.....	Oct. 14, 1982.....	1450
97-308 .....	<i>Certain persons protected by U.S. Secret Service; protection zones, establishment.</i> AN ACT To amend chapter 84, section 1752 of title 18, United States Code, to authorize the Secretary of the Treasury to establish zones of protection for certain persons protected by the United States Secret Service .....	Oct. 14, 1982.....	1451
97-309 .....	<i>Aviation insurance program, extension.</i> AN ACT TO extend the aviation insurance program for five years ....	Oct. 14, 1982.....	1453
97-310 .....	<i>Wolf Trap Farm Park Act.</i> AN ACT To provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes .....	Oct. 14, 1982.....	1455



# LIST OF PUBLIC LAWS

xxi

Public Law		Date	Page
97-311	<i>Connecticut; release of U.S. interest in certain land.</i> AN ACT To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut.....	Oct. 14, 1982.....	1459
97-312	<i>U.S. Department of Agriculture, certain employees given right to carry firearms for self-protection.</i> AN ACT To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection and to improve the quality of table grapes for marketing in the United States.....	Oct. 14, 1982.....	1461
97-313	<i>Education Consolidation and Improvement Act of 1981, amendment.</i> AN ACT To authorize the use of education block grant funds to teach the principles of citizenship.....	Oct. 14, 1982.....	1462
97-314	<i>Federal buildings, designations.</i> AN ACT To designate the building known as the Federal Building and United States Courthouse in Greenville, South Carolina, as the "Clement F. Haynsworth, Jr., Federal Building", the building known as the Quincy Post Office in Quincy, Massachusetts, as the "James A. Burke Post Office", and the United States Post Office Building in Portsmouth, Ohio, as the "William H. Harsha United States Post Office Building".....	Oct. 14, 1982.....	1463
97-315	<i>Head Start Awareness Month.</i> JOINT RESOLUTION To provide for the designation of the month of October 1982, as "Head Start Awareness Month".....	Oct. 14, 1982.....	1464
97-316	<i>National Home Health Care Week.</i> JOINT RESOLUTION To designate the week beginning November 28 through December 4, 1982, as "National Home Health Care Week".....	Oct. 14, 1982.....	1465
97-317	<i>Myasthenia Gravis Awareness Week.</i> JOINT RESOLUTION To provide for the designation of the week of October 17 through October 23, 1982, as "Myasthenia Gravis Awareness Week".....	Oct. 14, 1982.....	1466
97-318	<i>National Agriculture Day.</i> JOINT RESOLUTION To proclaim March 21, 1983, as "National Agriculture Day".....	Oct. 14, 1982.....	1467
97-319	<i>National Spinal Cord Injury Month.</i> JOINT RESOLUTION To provide for the designation of the month of October 1982, as "National Spinal Cord Injury Month".....	Oct. 14, 1982.....	1468
97-320	<i>Garn-St Germain Depository Institutions Act of 1982.</i> AN ACT To revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans.....	Oct. 15, 1982.....	1469
97-321	<i>Military Construction Authorization Act, 1983.</i> AN ACT To authorize certain construction at military installations for fiscal year 1983, and for other purposes.....	Oct. 15, 1982.....	1549
97-322	<i>Coast Guard, appropriation authorization for fiscal years 1983 and 1984.</i> AN ACT To authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.....	Oct. 15, 1982.....	1581
97-323	<i>Military Construction Appropriation Act, 1983.</i> AN ACT Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.....	Oct. 15, 1982.....	1591

Public Law		Date	Page
97-324	<i>National Aeronautics and Space Administration Authorization Act, 1983.</i> AN ACT To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes .....	Oct. 15, 1982.....	1597
97-325	<i>International Carriage of Perishable Foodstuffs Act.</i> AN ACT To authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes .....	Oct. 15, 1982.....	1603
97-326	<i>Consolidated Federal Funds Report Act of 1982.</i> AN ACT To require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes .....	Oct. 15, 1982.....	1607
97-327	<i>Federal-Aid Highway Act of 1982.</i> AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes .....	Oct. 15, 1982.....	1611
97-328	<i>District of Columbia Self-Government and Governmental Reorganization Act, amendment.</i> AN ACT To amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans .....	Oct. 15, 1982.....	1614
97-329	<i>Mary McLeod Bethune Council House, D.C.; national historic site, designation.</i> AN ACT To designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes .....	Oct. 15, 1982.....	1615
97-330	<i>Administrative Conference Act, amendment.</i> AN ACT To amend the Administrative Conference Act, by authorizing appropriations therefor .....	Oct. 15, 1982.....	1618
97-331	<i>Motor Vehicle Safety and Cost Savings Authorization Act of 1982.</i> AN ACT To amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1983, 1984, and 1985, and for other purposes .....	Oct. 15, 1982.....	1619
97-332	<i>Economy Act, amendment.</i> AN ACT To amend the Economy Act to provide that all departments and agencies may obtain materials or services from other agencies by contract, and for other purposes .....	Oct. 15, 1982.....	1622
97-333	<i>Protection Island National Wildlife Refuge Act.</i> AN ACT To establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington .....	Oct. 15, 1982.....	1623
97-334	<i>District of Columbia Self-Government and Governmental Reorganization Act, amendment.</i> AN ACT To amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia..	Oct. 15, 1982.....	1626
97-335	<i>Acadia National Park, Maine, boundary establishment</i> AN ACT Relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine .....	Oct. 15, 1982.....	1627
97-336	<i>Defense Production Act of 1950, extension.</i> AN ACT To extend the expiration date of the Defense Production Act of 1950 .....	Oct. 15, 1982.....	1630

# LIST OF PUBLIC LAWS

xxiii

Public Law		Date	Page
97-337.....	<i>Military retirees and dependents, medical facilities.</i> AN ACT To amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes.....	Oct. 15, 1982.....	1631
97-338.....	<i>Platte River, Nebr.; Federal-State study.</i> AN ACT To authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes.....	Oct. 15, 1982.....	1633
97-339.....	<i>Arms Control and Disarmament Amendments Act of 1982.</i> AN ACT To authorize appropriations under the Arms Control and Disarmament Act, and for other purposes.....	Oct. 15, 1982.....	1635
97-340.....	<i>Alaska, certain lands, conveyance.</i> AN ACT To provide for the conveyance of certain lands in Alaska comprising trade and trade manufacturing site A-056802 without regard to the eighty-rod limitation provided by existing law .....	Oct. 15, 1982.....	1637
97-341.....	<i>Capitol Reef National Park, grazing phaseout study.</i> AN ACT To provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes.....	Oct. 15, 1982.....	1639
97-342.....	<i>Nine naval vessels, transfer to certain foreign governments.</i> AN ACT To authorize the transfer of nine naval vessels to certain foreign governments .....	Oct. 15, 1982.....	1641
97-343.....	<i>National Drunk and Drugged Driving Awareness Week.</i> JOINT RESOLUTION To provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week" .....	Oct. 15, 1982.....	1643
97-344.....	<i>Certain restricted Indian land, Kans., partitioning.</i> AN ACT To provide for the partitioning of certain restricted Indian land in the State of Kansas .....	Oct. 15, 1982.....	1645
97-345.....	<i>Lake Oswego, Oreg., hydroelectric facility.</i> AN ACT To exempt the Lake Oswego, Oregon, hydroelectric facility from part I of the Federal Power Act (Act of June 10, 1920) as amended, and for other purposes.....	Oct. 15, 1982.....	1646
97-346.....	<i>Office of the Architect of the Capitol and Botanic Garden, training.</i> AN ACT To amend title 5, United States Code, to provide training opportunities for employees under the Office of the Architect of the Capitol and the Botanic Garden, and for other purposes .....	Oct. 15, 1982.....	1647
97-347.....	<i>Fish and Wildlife Act of 1956, amendment.</i> AN ACT To extend until October 1, 1983, the authority and authorization of appropriations for certain programs under the Fish and Wildlife Act of 1956 .....	Oct. 18, 1982.....	1652
97-348.....	<i>Coastal Barrier Resources Act.</i> AN ACT To protect and conserve fish and wildlife resources, and for other purposes.....	Oct. 18, 1982.....	1653
97-349.....	<i>National Housing Week.</i> JOINT RESOLUTION To designate "National Housing Week" .....	Oct. 18, 1982.....	1660
97-350.....	<i>Environmental Quality, Office and Council appropriation authorization, fiscal years 1982-1984.</i> AN ACT To authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1982, 1983, and 1984, and withdraw certain lands within the Mount Baker-Snoqualmie National Forest from leasing under mineral and geothermal leasing laws ...	Oct. 18, 1982.....	1661

Public Law		Date	Page
97-351 .....	<i>Convention on the Physical Protection of Nuclear Material Implementation Act of 1982.</i> AN ACT To amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes .....	Oct. 18, 1982.....	1663
97-352 .....	<i>Perishable Agricultural Commodities Act, 1930, amendment.</i> AN ACT To amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such Act, and for other purposes .....	Oct. 18, 1982.....	1667
97-353 .....	<i>National Diabetes Month.</i> JOINT RESOLUTION To designate the month of November 1982, as "National Diabetes Month" .....	Oct. 19, 1982.....	1668
97-354 .....	<i>Subchapter S Revision Act of 1982.</i> AN ACT To revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations).....	Oct. 19, 1982.....	1669
97-355 .....	<i>National Christmas Seal Month.</i> JOINT RESOLUTION To designate the month of November 1982 as "National Christmas Seal Month" .....	Oct. 19, 1982.....	1701
97-356 .....	<i>Indiana Dunes National Lakeshore, land conveyance.</i> AN ACT To authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana .....	Oct. 19, 1982.....	1703
97-357 .....	<i>United States insular areas, appropriation authorization.</i> AN ACT To authorize appropriations for certain insular areas of the United States, and for other purposes .....	Oct. 19, 1982.....	1705
97-358 .....	<i>Surplus Agricultural Commodities Disposal Act of 1982.</i> AN ACT To authorize the Commodity Credit Corporation to process its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts, and for the disposition thereof, and for other purposes.....	Oct. 21, 1982.....	1714
97-359 .....	<i>Immigration and Nationality Act, amendment; certain children of U.S. citizens, admission.</i> AN ACT To amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States citizens .....	Oct. 22, 1982.....	1716
97-360 .....	<i>Certain surplus vessels for health services to developing countries.</i> AN ACT To set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries .....	Oct. 22, 1982.....	1718
97-361 .....	<i>Sleeping Bear Dunes National Lakeshore, Mich.</i> AN ACT To amend sections 10 and 11 of the Act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes" .....	Oct. 22, 1982.....	1720
97-362 .....	<i>Miscellaneous Revenue Act of 1982.</i> AN ACT To reduce the amount of LIFO recapture in the case of certain plans of liquidation adopted during 1982, to make adjustments in the net operating loss carryback and carryforward rules for the Federal National Mortgage Association, and for other purposes.....	Oct. 25, 1982.....	1726
97-363 .....	<i>Refugee Assistance Amendments of 1982.</i> AN ACT To amend chapter 2 of title IV of the Immigration and Nationality Act to extend for one year the authorization of appropriations for refugee assistance, and for other purposes .....	Oct. 25, 1982.....	1734

# LIST OF PUBLIC LAWS

XXV

Public Law		Date	Page
97-364.....	<i>Alcohol traffic safety programs, national driver register.</i> AN ACT To amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs and to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals.....	Oct. 25, 1982.....	1738
97-365.....	<i>Debt Collection Act of 1982.</i> AN ACT To increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States.....	Oct. 25, 1982.....	1749
97-366.....	<i>Copyright Office fees, amendment.</i> AN ACT To amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes...	Oct. 25, 1982.....	1759
97-367.....	<i>White House Conference Productivity Act.</i> AN ACT To establish a White House Conference on Productivity.	Oct. 25, 1982.....	1761
97-368.....	<i>Fiorello H. La Guardia Memorial Day.</i> JOINT RESOLUTION Designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day" .....	Dec. 17, 1982.....	1764
97-369.....	<i>Department of Transportation and Related Agencies Appropriations Act, 1983.</i> AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes .....	Dec. 18, 1982.....	1765
97-370.....	<i>Agriculture, rural development, and related agencies appropriations, 1983.</i> AN ACT Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes .....	Dec. 18, 1982.....	1787
97-371.....	<i>Wyandot Tribe of Indians of Oklahoma, distribution and use of funds.</i> AN ACT To provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the United States Court of Claims, and for other purposes .....	Dec. 20, 1982.....	1813
97-372.....	<i>Shawnee Tribe of Indians of Oklahoma, distribution and use of funds.</i> AN ACT To provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the United States Court of Claims, and for other purposes.....	Dec. 20, 1982.....	1815
97-373.....	<i>Colorado River Basin Project Act, amendment.</i> AN ACT To amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).....	Dec. 20, 1982.....	1817
97-374.....	<i>John Sack cabin, Targhee National Forest, Idaho.</i> AN ACT To provide for protection of the John Sack cabin, Targhee National Forest in the State of Idaho.	Dec. 20, 1982.....	1818
97-375.....	<i>Congressional Reports Elimination Act of 1982.</i> AN ACT To discontinue or amend certain requirements for agency reports to Congress .....	Dec. 21, 1982.....	1819
97-376.....	<i>Miami Tribe of Oklahoma and Indiana Indians, judgment funds, distribution.</i> AN ACT To provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the United States Court of Claims, and for other purposes .....	Dec. 21, 1982.....	1828

Public Law		Date	Page
97-377 .....	<i>Continuing appropriations for fiscal year 1983. JOINT RESOLUTION</i> Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.....	Dec. 21, 1982.....	1830
97-378 .....	<i>District of Columbia Appropriation Act, 1983. AN ACT</i> Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.....	Dec. 22, 1982.....	1925
97-379 .....	<i>U.S. Capitol Grounds, additional areas. AN ACT</i> To amend Public Law 96-432 relating to the United States Capitol Grounds.....	Dec. 22, 1982.....	1935
97-380 .....	<i>Federal personal property, donation for civil defense. AN ACT</i> To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.....	Dec. 22, 1982.....	1936
97-381 .....	<i>Robert B. Griffith Water Project, designation. AN ACT</i> To designate the southern Nevada water project the "Robert B. Griffith Water Project".....	Dec. 22, 1982.....	1937
97-382 .....	<i>Indian Mineral Development Act of 1982. AN ACT</i> To permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.....	Dec. 22, 1982.....	1938
97-383 .....	<i>Robert F. Henry Lock and Dam, designation. AN ACT</i> To designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam".....	Dec. 22, 1982.....	1941
97-384 .....	<i>Charles C. Deam Wilderness, Hossier National Forest, Ind., establishment. AN ACT</i> To establish the Charles C. Deam Wilderness in the Hossier National Forest, Indiana.....	Dec. 22, 1982.....	1942
97-385 .....	<i>Cherokee Nation of Oklahoma, claims against U.S., judgment. AN ACT</i> Conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.....	Dec. 23, 1982.....	1944
97-386 .....	<i>Pascua Yaqui Tribe of Arizona, land in trust. AN ACT</i> To declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona.....	Dec. 23, 1982.....	1946
97-387 .....	<i>Peace Corps Act, amendment. AN ACT</i> To amend the Peace Corps Act.....	Dec. 23, 1982.....	1947
97-388 .....	<i>"Dumas Malone: A Journey With Mr. Jefferson," distribution of film within U.S. AN ACT</i> To provide for the distribution within the United States of the United States Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson".....	Dec. 23, 1982.....	1948
97-389 .....	<i>Fisheries Amendments of 1982. AN ACT</i> To amend the Commercial Fisheries Research and Development Act of 1964.....	Dec. 29, 1982.....	1949
97-390 .....	<i>Supreme Court Police, appointment and authority. AN ACT</i> To provide for appointment and authority of the Supreme Court Police, and for other purposes.....	Dec. 29, 1982.....	1957
97-391 .....	<i>Cow Creek Band of Umpqua Tribe of Indians Recognition Act. AN ACT</i> To provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes.....	Dec. 29, 1982.....	1960

# LIST OF PUBLIC LAWS

xxvii

Public Law		Date	Page
97-392 .....	<i>Arms Export Control Act, amendment.</i> AN ACT To authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries .....	Dec. 29, 1982.....	1962
97-393 .....	<i>Clayton Act, amendment.</i> AN ACT To amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.....	Dec. 29, 1982.....	1964
97-394 .....	<i>Interior Department and related agencies, appropriations for fiscal year 1983.</i> AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes .....	Dec. 30, 1982.....	1966
97-395 .....	<i>Tris chemical ban, payment of losses.</i> AN ACT To provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.....	Dec. 30, 1982.....	2001
97-396 .....	<i>Conservation programs on military reservations and public lands, fiscal years 1983-1985; appropriation authorization.</i> AN ACT Authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes .....	Dec. 31, 1982.....	2005
97-397 .....	<i>Sycuan Band of Mission Indians, lands held in trust.</i> AN ACT To authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians.....	Dec. 31, 1982.....	2008
97-398 .....	<i>False Identification Crime Control Act of 1982.</i> AN ACT To amend title 18 of the United States Code to provide penalties for certain false identification related crimes.....	Dec. 31, 1982.....	2009
97-399 .....	<i>Florida Indian Land Claims Settlement Act of 1982.</i> AN ACT To settle certain Indian land claims within the State of Florida, and for other purposes .....	Dec. 31, 1982.....	2012
97-400 .....	<i>Joe Pool Lake, designation.</i> AN ACT To designate the Lakeview Lake project, Mountain Creek, Texas, as the "Joe Pool Lake" .....	Dec. 31, 1982.....	2017
97-401 .....	<i>Miles City, Mont., land conveyances.</i> AN ACT To authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior conveyances .....	Dec. 31, 1982.....	2018
97-402 .....	<i>Clallam Indians, judgment funds distribution.</i> AN ACT To provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes .....	Dec. 31, 1982.....	2020
97-403 .....	<i>Pembina Chippewa Indians, distribution and use of funds.</i> AN ACT To provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims .....	Dec. 31, 1982.....	2022
97-404 .....	<i>Job Training Partnership Act, amendments.</i> AN ACT To make certain minor and technical amendments to the Job Training Partnership Act.....	Dec. 31, 1982.....	2026
97-405 .....	<i>Voyageurs National Park, Minn., boundary revision.</i> AN ACT To revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes .....	Jan. 3, 1983.....	2028
97-406 .....	<i>Educational Mining Act of 1982.</i> AN ACT Entitled the "Educational Mining Act of 1982" .....	Jan. 3, 1983.....	2031

Public Law		Date	Page
97-407	<i>Paddy Creek Wilderness Act of 1981.</i> AN ACT To designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area", as a component of the National Wilderness Preservation System.....	Jan. 3, 1983.....	2033
97-408	<i>Indian judgment funds, distribution to certain tribes.</i> AN ACT To provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes.....	Jan. 3, 1983.....	2035
97-409	<i>Ethics in Government Act Amendments of 1982.</i> AN ACT To change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes....	Jan. 3, 1983.....	2039
97-410	<i>Telecommunications for the Disabled Act of 1982.</i> AN ACT To amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities.....	Jan. 3, 1983.....	2043
97-411	<i>Cheaha Wilderness Act.</i> AN ACT To establish the Cheaha Wilderness in Talladega National Forest, Alabama.....	Jan. 3, 1983.....	2046
97-412	<i>United States Code, title 5, amendment.</i> AN ACT To amend section 1304(e) of title 5, United States Code...	Jan. 3, 1983.....	2047
97-413	<i>Bicentennial of Air and Space Flight.</i> JOINT RESOLUTION To designate 1983 as the "Bicentennial of Air and Space Flight".....	Jan. 3, 1983.....	2048
97-414	<i>Orphan Drug Act.</i> AN ACT To amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.....	Jan. 4, 1983.....	2049
97-415	<i>Nuclear Regulatory Commission, appropriation authorization.</i> AN ACT To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.	Jan. 4, 1983.....	2067
97-416	<i>Deep Seabed Hard Mineral Resources Act, amendment.</i> AN ACT To reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984.....	Jan. 4, 1983.....	2084
97-417	<i>Coast Guard officer candidates, subsistence allowances.</i> AN ACT To provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes.....	Jan. 4, 1983.....	2085
97-418	<i>U.S. Secret Service Uniformed Division, foreign diplomatic missions.</i> AN ACT To amend title 3, United States Code, to clarify the function of the United States Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes.....	Jan. 4, 1983.....	2089
97-419	<i>National Closed-Captioned Television Month.</i> JOINT RESOLUTION To authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month".....	Jan. 4, 1983.....	2091



# LIST OF PUBLIC LAWS

xxix

Public Law		Date	Page
97-420 .....	<i>Public Employees' Appreciation Day.</i> JOINT RESOLUTION Designating January 17, 1983, as "Public Employees' Appreciation Day" .....	Jan. 4, 1983.....	2093
97-421 .....	<i>Greene County, Mo., one hundred and fiftieth anniversary commemoration.</i> JOINT RESOLUTION To commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Missouri .....	Jan. 4, 1983.....	2094
97-422 .....	<i>Don H. Clausen Fish Hatchery.</i> AN ACT To name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project as the Don H. Clausen Fish Hatchery .....	Jan. 4, 1983.....	2095
97-423 .....	<i>Paul Findley Building, designation.</i> AN ACT To designate a certain Federal building in Springfield, Illinois the "Paul Findley Building" .....	Jan. 4, 1983.....	2096
97-424 .....	<i>Surface Transportation Assistance Act of 1982.</i> AN ACT To authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes .....	Jan. 6, 1983.....	2097
97-425 .....	<i>Nuclear Waste Policy Act of 1982.</i> AN ACT To provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes .....	Jan. 7, 1983.....	2201
97-426 .....	<i>Mono County, Calif., land withdrawal and exchange.</i> AN ACT To modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, California, and for other purposes .....	Jan. 8, 1983.....	2264
97-427 .....	<i>Former Members of Congress, incorporation.</i> AN ACT To recognize the organization known as Former Members of Congress .....	Jan. 8, 1983.....	2265
97-428 .....	<i>Navajo Tribe of Indians, lands held in trust.</i> AN ACT To authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes .....	Jan. 8, 1983.....	2268
97-429 .....	<i>Texas Band of Kickapoo Act.</i> AN ACT To grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes .....	Jan. 8, 1983.....	2269
97-430 .....	<i>Walter E. Hoffman United States Courthouse, designation.</i> AN ACT To designate the building known as the United States Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman United States Courthouse" .....	Jan. 8, 1983.....	2272
97-431 .....	<i>Albuquerque, N. Mex., previous land conveyance; release of certain restrictions.</i> AN ACT To direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, New Mexico, and for other purposes .....	Jan. 8, 1983.....	2273
97-432 .....	<i>Plant Quarantine Act, amendment.</i> AN ACT To amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements .....	Jan. 8, 1983.....	2276
97-433 .....	<i>National Park System Visitor Facilities Fund Act.</i> AN ACT To establish the National Park System Visitor Facilities Fund, and for other purposes .....	Jan. 8, 1983.....	2277

Public Law		Date	Page
97-434 .....	<i>Ramah Navajo and Choctaw Indians of Mississippi, lands held in trust.</i> AN ACT To declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians .....	Jan. 8, 1983.....	2280
97-435 .....	<i>Eastern Washington University, release of certain land patent conditions.</i> AN ACT To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University .....	Jan. 8, 1983.....	2281
97-436 .....	<i>Confederated Tribes of the Warm Springs Reservation, distribution of judgment funds.</i> AN ACT To provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes .....	Jan. 8, 1983.....	2283
97-437 .....	<i>IRS student interns, information accessibility.</i> AN ACT To amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties .....	Jan. 8, 1983.....	2285
97-438 .....	<i>Foreign Assistance Act of 1961, amendment.</i> AN ACT To amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs .....	Jan. 8, 1983.....	2286
97-439 .....	<i>Federal Seed Act Amendments of 1982.</i> AN ACT To amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes.....	Jan. 8, 1983.....	2287
97-440 .....	<i>Federal Water Pollution Control Act, amendment.</i> AN ACT To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH .....	Jan. 8, 1983.....	2289
97-441 .....	<i>National High School Activities Week.</i> JOINT RESOLUTION Designating "National High School Activities Week" .....	Jan. 8, 1983.....	2291
97-442 .....	<i>National Jaycee Week.</i> JOINT RESOLUTION To authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week" .....	Jan. 8, 1983.....	2292
97-443 .....	<i>National Children and Television Week.</i> JOINT RESOLUTION To designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week" .....	Jan. 8, 1983.....	2293
97-444 .....	<i>Futures Trading Act of 1982.</i> AN ACT To extend the Commodity Exchange Act, and for other purposes.....	Jan. 11, 1983.....	2294
97-445 .....	<i>American Indian Day.</i> JOINT RESOLUTION Authorizing the President to proclaim May 13, 1983, as "American Indian Day" .....	Jan. 12, 1983.....	2328
97-446 .....	<i>Tariff Schedules, temporary duty suspension.</i> AN ACT To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.....	Jan. 12, 1983.....	2329
97-447 .....	<i>United States Capitol Historical Society, tax exemption.</i> AN ACT To exempt the United States Capitol Historical Society from certain taxes.....	Jan. 12, 1983.....	2364
97-448 .....	<i>Technical Corrections Act of 1982.</i> AN ACT To make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation ...	Jan. 12, 1983.....	2365

# LIST OF PUBLIC LAWS

xxxi

Public Law		Date	Page
97-449 .....	<i>Department of Transportation and Motor Carrier Safety; enactment as subtitle I and chapter 31 of subtitle II of title 49, United States Code. AN ACT To revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation"</i> .....	Jan. 12, 1983 .....	2413
97-450 .....	<i>B. F. Sisk Federal Building, designation. AN ACT To designate the Federal Building in Fresno, California, as the "B. F. Sisk Federal Building"</i> .....	Jan. 12, 1983 .....	2446
97-451 .....	<i>Federal Oil and Gas Royalty Management Act of 1982. AN ACT To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes</i> .....	Jan. 12, 1983 .....	2447
97-452 .....	<i>Money and finance, United States Code amendments. AN ACT To codify without substantive change recent laws related to money and finance and to improve the United States Code</i> .....	Jan. 12, 1983 .....	2467
97-453 .....	<i>Fishery conservation and management, improvement. AN ACT To improve fishery conservation and management</i> .....	Jan. 12, 1983 .....	2481
97-454 .....	<i>Quarterly financial report, transfer. AN ACT To amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes</i> .....	Jan. 12, 1983 .....	2494
97-455 .....	<i>Internal Revenue Code of 1954 and Social Security Act, amendments. AN ACT To amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes</i> .....	Jan. 12, 1983 .....	2497
97-456 .....	<i>U.S. International Trade Commission, U.S. Customs Service and Office of the U.S. Trade Representative, appropriation authorizations. AN ACT To authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes</i> .....	Jan. 12, 1983 .....	2503
97-457 .....	<i>Certain banking and related statutes, technical corrections. JOINT RESOLUTION To make technical corrections in certain banking and related statutes</i> .....	Jan. 12, 1983 .....	2507
97-458 .....	<i>Indians, judgment funds distribution. AN ACT To amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims</i> .....	Jan. 12, 1983 .....	2512
97-459 .....	<i>Devils Lake Sioux Tribe, N. Dak., authorization to procure land. AN ACT To authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes</i> .....	Jan. 12, 1983 .....	2515
97-460 .....	<i>Saratoga National Historical Park, N.Y., boundary revision. AN ACT To revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes</i> .....	Jan. 12, 1983 .....	2520

Public Law		Date	Page
97-461	<i>Plant, livestock, and poultry diseases, civil penalties for introduction and dissemination.</i> AN ACT To authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes.....	Jan. 12, 1983.....	2523
97-462	<i>Federal Rules of Civil Procedure Amendments Act of 1982.</i> AN ACT To amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.....	Jan. 12, 1983.....	2527
97-463	<i>Jurors and attorneys for Federal cases, protection and compensation.</i> AN ACT To amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail.....	Jan. 12, 1983.....	2531
97-464	<i>Earthquake Hazard Reduction Act of 1971, amendment.</i> AN ACT To amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes.....	Jan. 12, 1983.....	2533
97-465	<i>National Forest System, land conveyance.</i> AN ACT To authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.....	Jan. 12, 1983.....	2535
97-466	<i>Monongahela National Forest, W. Va., land designations.</i> AN ACT To designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness.....	Jan. 13, 1983.....	2538
97-467	<i>Tennyson Guyer Federal Building, designation.</i> AN ACT To designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building".....	Jan. 14, 1983.....	2542
97-468	<i>Rail Safety and Service Improvement Act of 1982.</i> AN ACT Making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.....	Jan. 14, 1983.....	2543
97-469	<i>Budget and Economic Reports, transmittal to Congress.</i> JOINT RESOLUTION Establishing the dates for submission of the Budget and Economic Report.....	Jan. 14, 1983.....	2582
97-470	<i>Migrant and Seasonal Agricultural Worker Protection Act.</i> AN ACT To provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes.....	Jan. 14, 1983.....	2583
97-471	<i>Judicial districts of W. Va., modification.</i> AN ACT To modify the judicial districts of West Virginia, and for other purposes.....	Jan. 14, 1983.....	2601
97-472	<i>Tricentennial Anniversary Year of German Settlement in America.</i> JOINT RESOLUTION To designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America".....	Jan. 14, 1983.....	2603
97-473	<i>Damages for personal injury or sickness, tax treatment of periodic payments.</i> AN ACT To amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes.....	Jan. 14, 1983.....	2605

# LIST OF BILLS ENACTED INTO PRIVATE LAW

## THE NINETY-SEVENTH CONGRESS, SECOND SESSION

---

Bill No.	Private Law No.
H.R. 684 .....	97-34
H.R. 825 .....	97-30
H.R. 828 .....	97-44
H.R. 1231 .....	97-21
H.R. 1481 .....	97-35
H.R. 1482 .....	97-24
H.R. 1543 .....	97-22
H.R. 1608 .....	97-23
H.R. 1624 .....	97-16
H.R. 1681 .....	97-17
H.R. 1783 .....	97-31
H.R. 1796 .....	97-18
H.R. 1826 .....	97-36
H.R. 1841 .....	97-32
H.R. 1977 .....	97-19

Bill No.	Private Law No.
H.R. 2193 .....	97-37
H.R. 2340 .....	97-38
H.R. 2342 .....	97-45
H.R. 2481 .....	97-52
H.R. 2520 .....	97-47
H.R. 3126 .....	97-27
H.R. 3127 .....	97-25
H.R. 3171 .....	97-39
H.R. 3451 .....	97-40
H.R. 3478 .....	97-20
H.R. 3592 .....	97-46
H.R. 3782 .....	97-13
H.R. 3835 .....	97-28
H.R. 4350 .....	97-56
H.R. 4490 .....	97-33

Bill No.	Private Law No.
H.R. 4662 .....	97-41
H.R. 4746 .....	97-53
H.R. 5633 .....	97-54
H.R. 5826 .....	97-55
H.R. 6811 .....	97-42
S. 167 .....	97-26
S. 215 .....	97-29
S. 262 .....	97-14
S. 717 .....	97-48
S. 835 .....	97-49
S. 1093 .....	97-15
S. 1364 .....	97-50
S. 1838 .....	97-51
S. 2146 .....	97-43

xxxiii

# LIST OF PRIVATE LAWS

## CONTAINED IN THIS VOLUME

Private Law		Date	Page
97-13 .....	<i>Oceanic Constitution; U.S. Coast Guard documentation of vessel.</i> AN ACT To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel <i>Oceanic Constitution</i> into the trade .....	Mar. 2, 1982 .....	2617
97-14 .....	<i>Dolly Akers.</i> AN ACT For the relief of Dolly Akers, Fort Peck Indian Reservation, Montana .....	Mar. 30, 1982 ....	2617
97-15 .....	<i>Sandra R. Pellecer.</i> AN ACT For the relief of Sandra Reyes Pellecer .....	May 4, 1982 .....	2618
97-16 .....	<i>Theresa M. Alcalen.</i> AN ACT For the relief of Theresa Macam Alcalen .....	May 17, 1982 .....	2618
97-17 .....	<i>Andre B. Eubanks.</i> AN ACT For the relief of Andre Bartholo Eubanks .....	May 17, 1982 .....	2619
97-18 .....	<i>Jacobo Cosio-Franco.</i> AN ACT For the relief of Jacobo Cosio-Franco .....	May 17, 1982 .....	2619
97-19 .....	<i>Maria Gloria C. Villa.</i> AN ACT For the relief of Maria Gloria (Joy) C. Villa .....	May 17, 1982 .....	2619
97-20 .....	<i>Mrs. Haruko K. Smith.</i> AN ACT For the relief of Mrs. Haruko Kubota Smith .....	May 17, 1982 .....	2620
97-21 .....	<i>Washington Post, Washington Star, and others.</i> AN ACT For the relief of the Washington Post, the Washington Star, the Dispatch (Lexington, North Carolina), the Brooklyn Times, Equity Advertising Agency, Incorporated, the Seattle Post-Intelligencer, and the News Tribune .....	June 1, 1982 .....	2620
97-22 .....	<i>A. C. Taber and Mary Taber, real property conveyance.</i> AN ACT To confirm a conveyance of certain real property by the Central Pacific Railway Company and Southern Pacific Company to A. C. Taber and his wife, Mary Taber .....	June 1, 1982 .....	2621
97-23 .....	<i>Mrs. Frieda Simonson.</i> AN ACT For the relief of Mrs. Frieda Simonson .....	June 1, 1982 .....	2622
97-24 .....	<i>Christina B. Sidders.</i> AN ACT For the relief of Christina Boltz Sidders .....	June 30, 1982 ....	2622
97-25 .....	<i>S. Sgt. Anne M. Fisher.</i> AN ACT For the relief of Staff Sergeant Anne M. Fisher, United States Army Reserve .....	July 12, 1982 ....	2622
97-26 .....	<i>Juan E. Ramirez.</i> AN ACT For the relief of Juan Esteban Ramirez .....	Aug. 26, 1982 ....	2623
97-27 .....	<i>U.S. Coast Guard, documentation of vessels.</i> AN ACT To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel <i>Sky Lark</i> to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes .....	Sept. 8, 1982 .....	2623
97-28 .....	<i>Rutherford K. and Ida T. Clarke.</i> AN ACT For the relief of Rutherford K. Clarke and his wife Ida T. Clarke .....	Sept. 24, 1982 ....	2624
97-29 .....	<i>Lourie Ann Eder.</i> AN ACT For the relief of Lourie Ann Eder .....	Oct. 1, 1982 .....	2624
97-30 .....	<i>Yick Bong Au Yeung.</i> AN ACT For the relief of Yick Bong Au Yeung .....	Oct. 14, 1982 ....	2625

Private Law		Date	Page
97-31	<i>Felipe B. and Maria Monita A. Manalo.</i> AN ACT For the relief of Felipe B. Manalo and Maria Monita A. Manalo	Oct. 14, 1982	2625
97-32	<i>Isabelita C. Portilla.</i> AN ACT For the relief of Isabelita Clima Portilla	Oct. 14, 1982	2625
97-33	<i>Lehi L. Pitchforth, Jr.</i> AN ACT For the relief of Lehi L. Pitchforth, Junior	Oct. 14, 1982	2626
97-34	<i>Ok-Boon Kang.</i> AN ACT For the relief of Ok-Boon Kang	Oct. 15, 1982	2627
97-35	<i>George H. Weston.</i> AN ACT For the relief of George Herbert Weston	Oct. 15, 1982	2627
97-36	<i>Shinji Oniki.</i> AN ACT For the relief of Shinji Oniki	Oct. 15, 1982	2627
97-37	<i>Berendina Antonia M. van Kleeff.</i> AN ACT For the relief of Berendina Antonia Maria van Kleeff	Oct. 15, 1982	2628
97-38	<i>Theodore A. Dominguez.</i> AN ACT For the relief of Theodore Anthony Dominguez	Oct. 15, 1982	2628
97-39	<i>Dr. David Pass.</i> AN ACT For the relief of Doctor David Pass	Oct. 15, 1982	2628
97-40	<i>Danuta Gwozdz.</i> AN ACT For the relief of Danuta Gwozdz	Oct. 15, 1982	2629
97-41	<i>Eun Ok Han.</i> AN ACT For the relief of Eun Ok Han	Oct. 15, 1982	2629
97-42	<i>Alejo and Sonia White.</i> AN ACT For the relief of Alejo White and Sonia White	Oct. 15, 1982	2630
97-43	<i>Federal oil and gas lease terms, extension.</i> AN ACT To extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W66250	Oct. 19, 1982	2630
97-44	<i>George G. Barrios, et al.</i> AN ACT For the relief of George G. Barrios, doctor of Medicine, his wife Olga T. Cruz, and their children Kurt F. Barrios, and Karl S. Barrios, and Katrina Adelaida Theresa	Oct. 22, 1982	2631
97-45	<i>Maria C. Gabella-Ossa.</i> AN ACT For the relief of Maria Cecilia Gabella-Ossa	Oct. 22, 1982	2632
97-46	<i>Uili Tuifua, et al.</i> AN ACT For the relief of Uili Tuifua, Talameafou Tuifua, Heta Tuifua, Sateki Tuifua, Ilaisaane Tuifua, and Ofa Hemooni Tuifua	Oct. 22, 1982	2632
97-47	<i>Emanuel F. Lenkersdorf.</i> AN ACT For the relief of Emanuel F. Lenkersdorf	Jan. 3, 1983	2632
97-48	<i>Carole Joy Maxfield-Raynor, et al.</i> AN ACT For the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor	Jan. 3, 1983	2633
97-49	<i>Jerry L. Crow and Ralph D. and Connie V. Hubbell.</i> AN ACT For the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell	Jan. 3, 1983	2633
97-50	<i>Jose Ramon Beltron Aivenda Ostler.</i> AN ACT For the relief of Jose Ramon Beltron Aivenda Ostler	Jan. 3, 1983	2634
97-51	<i>Cesar N. Jump.</i> AN ACT For the relief of Cesar Noel Jump	Jan. 3, 1983	2634
97-52	<i>Cynthia G. Rabena.</i> AN ACT For the relief of Cynthia Gambon Rabena	Jan. 4, 1983	2635
97-53	<i>Kin Chi Eng Sims.</i> AN ACT For the relief of Kin Chi Eng Sims	Jan. 6, 1983	2635
97-54	<i>Dana B. Baretto.</i> AN ACT For the relief of Dana Braford Baretto	Jan. 6, 1983	2635
97-55	<i>U.S. oil and gas lease, reinstatement and validation.</i> AN ACT To provide for the reinstatement and validation of United States oil and gas lease numbered W-24153	Jan. 8, 1983	2636
97-56	<i>Arthur J. Grauf.</i> AN ACT For the relief of Arthur J. Grauf	Jan. 12, 1983	2636

# LIST OF CONCURRENT RESOLUTIONS

## CONTAINED IN THIS VOLUME

	Con Res.	Date	Page
<i>Congress. Joint meeting</i> .....	H. Con. Res. 244 ....	Jan. 25, 1982 .....	2639
<i>House of Representatives and Senate. Adjournment from Feb. 10-22, 1982 and Feb. 11 or 12-22, 1982 respectively</i> .....	H. Con. Res. 268 ....	Feb. 10, 1982 .....	2639
<i>Roger Williams. Commemoration of religious toleration and freedom</i> .....	S. Con. Res. 64 .....	Feb. 25, 1982 .....	2639
<i>Federally Insured Depository Institutions. Reaffirmation of fund security</i> .....	H. Con. Res. 290 ....	Mar. 23, 1982 ....	2639
<i>Vashchenko and Chmykhalov Families' Denial of Religious Freedom by U.S.S.R. Expression of U.S. concern</i> .....	H. Con. Res. 100 ....	Mar. 25, 1982 ....	2640
<i>Days of Remembrance of Victims of the Holocaust. Capitol Rotunda ceremony</i> .....	H. Con. Res. 299 ....	Mar. 31, 1982 ....	2641
<i>House of Representatives and Senate. Adjournment from Apr. 1 or 2-13, 1982 and Apr. 6-20, 1982</i> .....	S. Con. Res. 78 .....	Apr. 1, 1982 .....	2641
<i>Canadian Constitution. Congratulations on patriation from United Kingdom</i> .....	S. Con. Res. 83 .....	Apr. 27, 1982 ....	2642
<i>United States and Korea. One-hundredth anniversary of diplomatic relations</i> .....	S. Con. Res. 84 .....	May 4, 1982 .....	2642
<i>Hadassah. Congratulations on its seventieth anniversary</i> .....	S. Con. Res. 62 .....	May 11, 1982 .....	2643
<i>Older Americans Month. Expression of congressional recognition</i> .....	S. Con. Res. 82 .....	May 11, 1982 .....	2643
<i>Used Motor Vehicle Sales. Disapproval of FTC regulation</i> .....	S. Con. Res. 60 .....	May 26, 1982 .....	2644
<i>House of Representatives and Senate. Adjournment from May 27, but no later than May 29-June 8, 1982 and beginning with May 27-June 8, 1982</i> .....	S. Con. Res. 102 .....	May 28, 1982 .....	2644
<i>Yuriy Shukhevych. U.S. support for release from imprisonment and emigration from U.S.S.R.</i> ..	H. Con. Res. 111 ....	June 21, 1982 ....	2644
<i>Ukrainian Citizens. U.S. objection to persecution, imprisonment, and denial of human rights</i> .....	H. Con. Res. 205 ....	June 21, 1982 ....	2645
<i>Mart Niklus. U.S. support for release from imprisonment and emigration from U.S.S.R.</i> .....	H. Con. Res. 218 ....	June 21, 1982 ....	2646
<i>Congressional Budget for Fiscal Years 1983-1985 and Revision for Fiscal Year 1982</i> .....	S. Con. Res. 92 .....	June 23, 1982 ....	2647
<i>Thailand's Rattanakosin Bicentennial. Expression of congratulations</i> .....	S. Con. Res. 98 .....	June 23, 1982 ....	2661
<i>House of Representatives and Senate. Adjournment between June 23-July 2, 1982 and July 1 or 2, 1982 both until July 12, 1982 respectively</i> ..	H. Con. Res. 367 .....	June 30, 1982 ....	2662
<i>House of Representatives and Senate. Adjournment period</i> .....	H. Con. Res. 386 ....	July 29, 1982 .....	2662
<i>Education Consolidation and Improvement Act of 1981. Disapproval of certain regulations</i> .....	H. Con. Res. 388 ....	Aug. 10, 1982 ....	2662
<i>Yuri Balovlenkov. U.S. support for freedom to emigrate from Soviet Union</i> .....	H. Con. Res. 385 ....	Aug. 18, 1982 ....	2663



## LIST OF CONCURRENT RESOLUTIONS

	Con. Res.	Date	Page
<i>H.R. 6955</i> . Corrections in enrollment .....	H. Con. Res. 396 ....	Aug. 18, 1982 ....	2663
<i>H.R. 4961</i> . Corrections in enrollment .....	H. Con. Res. 398 ....	Aug. 19, 1982 ....	2664
<i>House of Representatives and Senate</i> . Adjournment from Aug. 20–Sept. 8, 1982 and Aug. 19, 20 or 21–Sept. 8, 1982 respectively .....	H. Con. Res. 399 ....	Aug. 20, 1982 ....	2667
<i>Philip Habib</i> . Expression of gratitude for service as special envoy .....	H. Con. Res. 397 ....	Sept. 16, 1982 ....	2667
<i>H.R. 3517</i> . Corrections in enrollment .....	H. Con. Res. 405 ....	Sept. 17, 1982 ....	2667
<i>Betty Ford Center</i> . Establishment .....	H. Con. Res. 407 ....	Sept. 24, 1982 ....	2668
<i>Washington Cathedral</i> . Seventy-fifth anniversary .....	S. Con. Res. 120 ....	Sept. 29, 1982 ....	2668
<i>Aviation Insurance</i> . Preparation of duplicate conference papers on H.R. 5930 .....	H. Con. Res. 414 ....	Sept. 29, 1982 ....	2669
<i>Pearl Street Centennial Day</i> . Commemoration .....	S. Con. Res. 117 ....	Sept. 30, 1982 ....	2669
<i>Bahà'i Community in Iran</i> . Persecution of members .....	S. Con. Res. 73 .....	Sept. 30, 1982 ....	2670
<i>Ukrainian Orthodox and Catholic Churches in U.S.S.R.</i> Religious repression .....	S. Con. Res. 18 .....	Sept. 30, 1982 ....	2670
<i>S. 2036</i> . Corrections in enrollment .....	S. Con. Res. 127 ....	Oct. 1, 1982 ....	2671
<i>H.J. Res. 599</i> . Correction in enrollment .....	H. Con. Res. 420 ....	Oct. 1, 1982 ....	2672
<i>James (Jim) Thorpe</i> . Recognition and restoration of Olympic records by International Olympic Committee .....	H. Con. Res. 364 ....	Oct. 2, 1982 .....	2672
<i>House of Representatives and Senate</i> . Adjournment from Oct. 1 or 2–Nov. 29, 1982 .....	H. Con. Res. 421 ....	Oct. 2, 1982 .....	2672
<i>Israel</i> . U.S. response to any illegal actions by United Nations General Assembly .....	H. Con. Res. 322 ....	Dec. 1, 1982 .....	2673
<i>American National Red Cross</i> . Honoring of volunteers .....	H. Con. Res. 376 ....	Dec. 2, 1982 .....	2673
<i>Graduate School, U.S. Department of Agriculture</i> . Sixtieth anniversary .....	H. Con. Res. 412 ....	Dec. 2, 1982 .....	2674
<i>Communications and Electronics Industry in U.S.</i> .....	S. Con. Res. 130 ....	Dec. 13, 1982 ....	2674
<i>Americans Missing in Southeast Asia</i> .....	S. Con. Res. 131 ....	Dec. 17, 1982 ....	2675
<i>H.R. 5447</i> . Correction in enrollment .....	H. Con. Res. 435 ....	Dec. 17, 1982 ....	2676
<i>H.R. 2330</i> . Correction in enrollment .....	S. Con. Res. 135 ....	Dec. 20, 1982 ....	2676
<i>General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982</i> .....	S. Con. Res. 136 ....	Dec. 20, 1982 ....	2678
<i>Printing the Enrollment of H.J. Res. 631 on Parchment</i> . Waiver .....	H. Con. Res. 436 ....	Dec. 20, 1982 ....	2678
<i>Dr. Martin Luther King, Jr.</i> Bust or statue placement in Capitol .....	H. Con. Res. 153 ....	Dec. 21, 1982 ....	2679
<i>Ida Nudel</i> . Emigration to Israel .....	H. Con. Res. 330 ....	Dec. 21, 1982 ....	2679
<i>Congress</i> . Adjournment sine die .....	H. Con. Res. 438 ....	Dec. 21, 1982 ....	2680
<i>H.R. 5470</i> . Correction in enrollment .....	H. Con. Res. 439 ....	Dec. 23, 1982 ....	2680

# LIST OF PROCLAMATIONS

## CONTAINED IN THIS VOLUME

No.		Date	Page
4887	Import Fees on Certain Sugars, Sirups and Molasses .....	Dec. 23, 1981...	2683
4888	Modification of Tariffs on Certain Sugars, Sirups and Molasses .....	Dec. 23, 1981...	2686
4889	Staged Reduction of Rates of Duty on Certain Products To Carry Out a Trade Agreement With Japan, and Technical Corrections in the Tariff Schedules of the United States ....	Dec. 29, 1981...	2687
4890	National Jaycee Week, 1982 .....	Jan. 18, 1982...	2690
4891	Solidarity Day .....	Jan. 20, 1982...	2691
4892	National Consumers' Week .....	Jan. 21, 1982...	2692
4893	Bicentennial Year of the American Bald Eagle and National Bald Eagle Day .....	Jan. 28, 1982...	2693
4894	American Heart Month, 1982 .....	Feb. 3, 1982...	2694
4895	National Scleroderma Week .....	Feb. 5, 1982...	2695
4896	National Poison Prevention Week, 1982 .....	Feb. 5, 1982...	2695
4897	National Day of Prayer .....	Feb. 12, 1982...	2696
4898	National Patriotism Week, 1982 .....	Feb. 13, 1982...	2697
4899	Red Cross Month, 1982 .....	Feb. 18, 1982...	2698
4900	The 250th Anniversary of the Birth of George Washington ....	Feb. 22, 1982...	2699
4901	Extension of Temporary Quantitative Limitation on the Importation Into the United States of Certain Clothespins .....	Feb. 22, 1982...	2700
4902	Save Your Vision Week, 1982 .....	Feb. 25, 1982...	2701
4903	Women's History Week, 1982 .....	Feb. 26, 1982...	2702
4904	Termination of Increased Rates of Duty on Certain Mushrooms and Technical Corrections in the Tariff Schedules of the United States .....	Feb. 27, 1982...	2703
4905	National Construction Industry Week, 1982 .....	Mar. 1, 1982...	2707
4906	Louisiana World Exposition of 1984 .....	Mar. 4, 1982...	2708
4907	Imports of Petroleum .....	Mar. 10, 1982...	2709
4908	Afghanistan Day .....	Mar. 10, 1982...	2710
4909	National Energy Education Day, 1982 .....	Mar. 10, 1982...	2710
4910	National Agriculture Day, 1982 .....	Mar. 18, 1982...	2712
4911	Pan American Day and Pan American Week, 1982 .....	Mar. 22, 1982...	2713
4912	Loyalty Day, 1982 .....	Mar. 24, 1982...	2714
4913	National Recognition Day for Nurses, 1982 .....	Mar. 24, 1982...	2714
4914	Zoo and Aquarium Month, 1982 .....	Mar. 25, 1982...	2715
4915	National Defense Transportation Day and National Transportation Week, 1982 .....	Mar. 25, 1982...	2716
4916	National Maritime Day, 1982 .....	Apr. 1, 1982...	2717
4917	National Safe Boating Week, 1982 .....	Apr. 1, 1982...	2718
4918	Older Americans Month, 1982 .....	Apr. 2, 1982...	2718
4919	Cancer Control Month, 1982 .....	Apr. 2, 1982...	2719
4920	National Medic Alert Week .....	Apr. 3, 1982...	2720
4921	National Day of Reflection .....	Apr. 3, 1982...	2721
4922	Mother's Day, 1982 .....	Apr. 5, 1982...	2722
4923	Small Business Week, 1982 .....	Apr. 5, 1982...	2722
4924	World Trade Week, 1982 .....	Apr. 5, 1982...	2723
4925	Parliamentary Emphasis Month, 1982 .....	Apr. 6, 1982...	2724
4926	American Salute to Cabanatuan Prisoner of War Memorial Day, 1982 .....	Apr. 9, 1982...	2724
4927	Asian/Pacific American Heritage Week, 1982 .....	Apr. 12, 1982...	2725
4928	Dutch-American Friendship Day, 1982 .....	Apr. 12, 1982...	2726
4929	Crime Victims Week, 1982 .....	Apr. 14, 1982...	2727

## LIST OF PROCLAMATIONS

No.		Date	Page
4930	National Architecture Week, 1982 .....	Apr. 16, 1982...	2728
4931	Law Day U.S.A., 1982 .....	Apr. 16, 1982...	2729
4932	Prayer for Peace, Memorial Day, 1982 .....	Apr. 16, 1982...	2730
4933	National Farm Safety Week, 1982 .....	Apr. 16, 1982...	2731
4934	Armed Forces Day, 1982 .....	Apr. 16, 1982...	2731
4935	National Year of Disabled Persons .....	Apr. 26, 1982...	2732
4936	Jewish Heritage Week .....	Apr. 27, 1982...	2733
4937	Father's Day, 1982 .....	Apr. 27, 1982...	2734
4938	Application of Certain United States Laws to the Northern Mariana Islands .....	May 3, 1982...	2734
4939	Flag Day and National Flag Week, 1982 .....	May 4, 1982...	2736
4940	Import Fees on Certain Sugars, Sirups and Molasses .....	May 5, 1982...	2737
4941	Modification of Quotas on Certain Sugars, Sirups and Molasses .....	May 5, 1982...	2740
4942	United States-Korea Centennial .....	May 10, 1982...	2743
4943	Amelia Earhart Day, 1982 .....	May 20, 1982...	2744
4944	National P.O.W.-M.I.A. Recognition Day, 1982 .....	June 1, 1982...	2745
4945	National Orchestra Week, 1982 .....	June 1, 1982...	2746
4946	National Child Abuse Prevention Week, 1982 .....	June 10, 1982...	2746
4947	National Peach Month, 1982 .....	June 15, 1982...	2747
4948	Baltic Freedom Day .....	June 14, 1982...	2748
4949	Citizenship Day and Constitution Week, 1982 .....	June 23, 1982...	2749
4950	National NCO/Petty Officer Week, 1982 .....	June 30, 1982...	2750
4951	National Children's Day, 1982 .....	June 30, 1982...	2750
4952	P.O.W.-M.I.A. Flag .....	July 6, 1982...	2751
4953	Captive Nations Week, 1982 .....	July 19, 1982...	2752
4954	National Navaho Code Talkers Day .....	July 28, 1982...	2752
4955	National Purple Heart Week, 1982 .....	July 30, 1982...	2753
4956	National Hispanic Heritage Week, 1982 .....	July 30, 1982...	2754
4957	Working Mothers' Day .....	Aug. 4, 1982...	2755
4958	Women's Equality Day, 1982 .....	Aug. 13, 1982...	2756
4959	Nordic-America Week, 1982 .....	Aug. 26, 1982...	2757
4960	Fire Prevention Week, 1982 .....	Sept. 8, 1982...	2758
4961	Leif Erikson Day, 1982 .....	Sept. 8, 1982...	2759
4962	Columbus Day, 1982 .....	Sept. 8, 1982...	2759
4963	White Cane Safety Day, 1982 .....	Sept. 8, 1982...	2760
4964	National P.T.A. Membership Month, 1982 .....	Sept. 13, 1982...	2761
4965	National Employ the Handicapped Week, 1982 .....	Sept. 13, 1982...	2761
4966	National Hospice Week, 1982 .....	Sept. 13, 1982...	2762
4967	American Education Week, 1982 .....	Sept. 13, 1982...	2763
4968	Child Health Day, 1982 .....	Sept. 14, 1982...	2764
4969	General Pulaski Memorial Day, 1982 .....	Sept. 14, 1982...	2764
4970	United Nations Day, 1982 .....	Sept. 14, 1982...	2765
4971	National Disabled Veterans Week, 1982 .....	Sept. 14, 1982...	2766
4972	Veterans Day, 1982 .....	Sept. 16, 1982...	2766
4973	Honoring the Ukrainian Helsinki Monitoring Group .....	Sept. 21, 1982...	2767
4974	National School Lunch Week, 1982 .....	Sept. 23, 1982...	2768
4975	National Forest Products Week, 1982 .....	Sept. 23, 1982...	2769
4976	National Sewing Month .....	Sept. 24, 1982...	2770
4977	National Cystic Fibrosis Week, 1982 .....	Sept. 24, 1982...	2770
4978	Lupus Awareness Week, 1982 .....	Sept. 24, 1982...	2771
4979	Thanksgiving Day, 1982 .....	Sept. 27, 1982...	2772
4980	Staged Reduction of Rates of Duty on Certain Products To Carry Out a Trade Agreement .....	Sept. 30, 1982...	2773
4981	National Schoolbus Safety Week of 1982 .....	Oct. 5, 1982...	2774
4982	Dr. Robert H. Goddard Day .....	Oct. 5, 1982...	2775
4983	World Food Day, 1982 .....	Oct. 5, 1982...	2776
4984	National Port Week, 1982 .....	Oct. 12, 1982...	2777
4985	National Newspaper Carrier Appreciation Day .....	Oct. 12, 1982...	2777
4986	National Farm-City Week, 1982 .....	Oct. 12, 1982...	2778
4987	National Spinal Cord Injury Month .....	Oct. 18, 1982...	2779
4988	National Housing Week, 1982 .....	Oct. 19, 1982...	2779
4989	Myasthenia Gravis Awareness Week, 1982 .....	Oct. 22, 1982...	2781

# LIST OF PROCLAMATIONS

xli

No.		Date	Page
4990	Head Start Awareness Month .....	Oct. 22, 1982...	2781
4991	Suspension of the Application of Column 1 Rates of Duty of the Tariff Schedules of the United States to the Products of Poland .....	Oct. 27, 1982...	2782
4992	Theodore Roosevelt Day .....	Oct. 27, 1982...	2783
4993	Termination in Part of the Proclamations Carrying Out the Agreement Between the Governments of the United States of America and Argentina Concerning Hide Exports and Other Trade Matters .....	Oct. 29, 1982...	2784
4994	National Diabetes Month, 1982.....	Nov. 2, 1982...	2785
4995	National Christmas Seal Month, 1982 .....	Nov. 2, 1982...	2786
4996	National Alzheimer's Disease Week .....	Nov. 2, 1982...	2787
4997	National Respiratory Therapy Week .....	Nov. 10, 1982...	2788
4998	Modification of the Tariff-Rate Quota on Brooms Wholly or in Part of Broom Corn .....	Nov. 10, 1982...	2788
4999	National Family Week, 1982 .....	Nov. 12, 1982...	2789
5000	National Home Health Care Week, 1982 .....	Nov. 15, 1982...	2790
5001	Wright Brothers Day, 1982 .....	Nov. 16, 1982...	2791
5002	Modification of Quotas on Certain Sugars, Sirups and Molasses .....	Nov. 30, 1982...	2792
5003	Bill of Rights Day, Human Rights Day and Week, 1982.....	Dec. 10, 1982...	2793
5004	A Day of Prayer for Poland and Solidarity With the Polish People .....	Dec. 10, 1982...	2794
5005	National Drunk and Drugged Driving Awareness Week .....	Dec. 13, 1982...	2795
5006	World Communications Year 1983: Development of Communi- cations Infrastructures .....	Dec. 16, 1982...	2796
5007	Fiorello H. La Guardia Memorial Day .....	Dec. 17, 1982...	2797
5008	National Closed-Captioned Television Month .....	Dec. 29, 1982...	2798

# PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE NINETY-SEVENTH CONGRESS

OF THE

UNITED STATES OF AMERICA

*Begun and held at the City of Washington on Monday, January 25, 1982; the House of Representatives adjourned sine die on Tuesday, December 21, 1982, and the Senate adjourned sine die on Thursday, December 23, 1982. RONALD REAGAN, President; GEORGE BUSH, Vice President; THOMAS P. O'NEILL, JR., Speaker of the House of Representatives.*

Public Law 97-146  
97th Congress

## Joint Resolution

To permit the broadcasting in the United States of the International Communication Agency film "Let Poland Be Poland: A Day of Solidarity With the People of Poland".

Jan. 30, 1982  
[H.J. Res. 382]

Whereas the Polish Action Committee has called on free peoples everywhere to commemorate January 30, 1982, as a Day of Solidarity with the People of Poland;

Whereas the American Federation of Labor and Congress of Industrial Organizations, the International Confederation of Free Trade Unions (ICFTU), and other labor organizations throughout the world are commemorating this day with rallies and other observances;

Whereas the President has issued a proclamation declaring January 30, 1982, to be Solidarity Day in the United States;

Whereas the heads of state of many free world nations will join in observing Solidarity Day;

Whereas these observances will be broadcast worldwide, over television and radio, to an expected audience of over 300 million people; and

Whereas it is desirable that the people of the United States be aware of, and participants in, this worldwide effort: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency may make the film entitled "Let Poland Be Poland: A Day of Solidarity With the People of Poland" available for broadcasting in the United States on January 31, 1982, or within thirty days thereafter.

"Let Poland Be Poland: A Day of Solidarity With the People of Poland."  
Broadcast release in U.S., permit.

Approved January 30, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 382 (S.J. Res. 139):**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Jan. 27, considered and passed House.  
Jan. 28, considered and passed Senate.

Public Law 97-147  
97th Congress

Joint Resolution

Feb. 15, 1982  
[H.J. Res. 389]

Making an urgent supplemental appropriation for the fiscal year ending September 30, 1982, for the Department of Agriculture.

Supplemental  
appropriation.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1982; namely:

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained heretofore, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), \$5,000,000,000.

SEC. 2. (a) The following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1982, namely:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SOCIAL SECURITY ADMINISTRATION

LOW INCOME ENERGY ASSISTANCE

For an additional amount for "Low Income Energy Assistance", \$123,000,000.

(b) None of the funds appropriated under this joint resolution shall be used, obligated, or expended for the purposes of section 2604(f), 2605(k), 2607(b)(1), or 2607(b)(2) of the Omnibus Budget Reconciliation Act of 1981.

95 Stat. 894, 896,  
900.

Approved February 15, 1982.

LEGISLATIVE HISTORY—H.J. Res. 389:

HOUSE REPORT No. 97-424 (Comm. on Appropriations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Feb. 9, considered and passed House.

Feb. 9, 10, considered and passed Senate, amended.

Feb. 10, House concurred in Senate amendment.

Public Law 97-148  
97th Congress

## Joint Resolution

Making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

Feb. 22, 1982  
[H.J. Res. 391]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1982, namely:

Labor  
Department,  
supplemental  
appropriation.

## DEPARTMENT OF LABOR

## EMPLOYMENT AND TRAINING ADMINISTRATION

## GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for unemployment insurance and employment services", from the Employment Security Administration Account in the Unemployment Trust Fund, \$343,490,000, of which \$146,700,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

## ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the Unemployment Trust Fund and Other Funds", \$1,950,000,000, to remain available until September 30, 1983.

Approved February 22, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 391:

HOUSE REPORT No. 97-425 (Comm. on Appropriations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Feb. 9, considered and passed House.  
Feb. 10, considered and passed Senate.



Public Law 97-149  
97th Congress

Joint Resolution

Feb. 26, 1982

[S.J. Res. 134]

To designate 1982 as the "National Year of Disabled Persons".

Whereas the designation by the United Nations of 1981 as the International Year of Disabled Persons has stimulated new progress toward achieving the full participation in national and community life of the thirty-five million Americans who have disabilities;

Whereas such progress has depended upon the initiative and resources of individuals and organizations in all sectors of American society who have worked in partnership with disabled persons;

Whereas such partnership has contributed substantially toward improving the lives of disabled Americans;

Whereas further additional action is required to increase public understanding of the unfulfilled needs and potential contributions of disabled persons; and

Whereas further progress should be made in the United States toward achieving the following long-term goals of and for disabled persons promoted during the International Year of Disabled Persons: (1) expanded educational opportunity; (2) improved access to housing, buildings, and transportation; (3) expanded employment opportunity; (4) expanded participation in recreational, social, and cultural activities; (5) expanded and strengthened rehabilitation programs and facilities; (6) purposeful application of biomedical research aimed at conquering major disabling conditions; (7) reduction in the incidence of disability by expanded accident and disease prevention; (8) expanded application of technology to minimize the effects of disability; and (9) expanded international exchange of information and experience to benefit all disabled persons; and

Whereas the United Nations is building upon the International Year of Disabled Persons momentum and is considering long-term initiatives to improve the lives of the world's one-half billion disabled persons: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1982 hereby*

National Year of  
Disabled  
Persons.

is designated the "National Year of Disabled Persons", and the President of the United States is authorized and requested to issue a proclamation calling upon the elected officials and people of the United States to observe such year through activities in support of the long-term goals for disabled persons promoted during the International Year of Disabled Persons.

Approved February 26, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 134:**

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 16, considered and passed Senate.  
Vol. 128 (1982): Feb. 10, considered and passed House.

Public Law 97-150  
97th Congress

## Joint Resolution

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Mar. 1, 1982  
[S.J. Res. 122]

**To authorize and request the President to designate the week of February 28, 1982, through March 6, 1982, as "National Construction Industry Week".**

National  
Construction  
Industry Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of February 28, 1982, through March 6, 1982, as "National Construction Industry Week", and calling upon all Government agencies and people of the United States to observe the week with appropriate programs, ceremonies, and activities.*

Approved March 1, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 122:

## CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 4, considered and passed Senate.

Vol. 128 (1982): Feb. 10, considered and passed House.

Public Law 97-151  
97th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.

Mar. 10, 1982

[S.J. Res. 142]

Whereas Afghanistan, more than two years after the Soviet invasion, remains a nation occupied and terrorized by over eighty thousand Soviet troops;

Whereas the continued Soviet occupation of Afghanistan is causing enormous suffering among the people of Afghanistan, as well as the deprivation of their basic right of national sovereignty;

Whereas over two and one-half million people of Afghanistan, constituting more than 15 per centum of the country's population, have fled the Soviet occupation and are now refugees in Pakistan and other neighboring countries;

Whereas the Soviet invasion of Afghanistan undermines the spirit and intention of the Declaration of Principles of the Final Act of the Conference on Security and Cooperation in Europe, which the Union of Soviet Socialist Republics signed at Helsinki in 1975;

Whereas the puppet regime of Babrak Karmal, installed and maintained by the Union of Soviet Socialist Republics, has denied the people of Afghanistan their right to self-determination, in violation of the United Nations Charter;

Whereas the undaunted resistance of the Afghan freedom fighters against the Soviet occupational forces is an inspiration to the free world;

Whereas the United Nations General Assembly passed a resolution on November 18, 1981, calling for "the immediate withdrawal of the foreign troops from Afghanistan";

Whereas the people of Afghanistan observe March 21 as the start of each new year and as a symbol of the nation's rebirth; and

Whereas the European Parliament has declared its intention to commemorate March 21, 1982, as Afghanistan Day: Now, therefore, be it

Afghanistan  
Day.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 21, 1982, as Afghanistan Day, and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.*

Approved March 10, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 142:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 3, considered and passed Senate.

Mar. 4, considered and passed House.

Public Law 97-152  
97th Congress

An Act

To extend the date for the submission to the Congress of the report of the Commission on Wartime Relocation and Internment of Civilians.

Mar. 16, 1982  
[H.R. 5021]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 4(c) of the Commission on Wartime Relocation and Internment of Civilians Act (94 Stat. 965; 50 U.S.C. app. 1981 note) is amended by striking out “the date which” and all that follows through “Act” and inserting in lieu thereof “December 31, 1982”.

Commission on  
Wartime  
Relocation and  
Internment of  
Civilians.  
Report to  
Congress,  
extension.

Approved March 16, 1982.

LEGISLATIVE HISTORY—H.R. 5021:

HOUSE REPORT No. 97-378 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): Feb. 25, considered and passed Senate.

Public Law 97-153  
97th Congress

Joint Resolution

Mar. 16, 1982  
[S.J. Res. 91]

To designate July 1982 as "National Peach Month".

Whereas peaches are recognized as the number one summer fruit; Whereas peaches are harvested in our Nation from May until October, with peak supplies occurring nationally in July; Whereas public awareness of the need for a well-balanced diet is becoming increasingly evident;

Whereas medical authorities believe that proper nutrition can be a factor in preventing and relieving diseases such as cancer, cardiovascular diseases, and other illnesses; and

Whereas peaches, which contain only thirty-eight calories each, are an important source of vitamin A, protein, and minerals, such as calcium and iron, and can be a nutritious part of any well-balanced diet: Now, therefore, be it

National Peach  
Month.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to designate July 1982 as "National Peach Month", to call upon the people of the United States to incorporate nutritious peaches into their diets when they are in season, and to call upon interested groups to celebrate this month with appropriate programs and activities that will make the benefits of this succulent fruit and of a well-balanced diet known to the consumers of America.

Approved March 16, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 91:**

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 25, considered and passed Senate.

Vol. 128 (1982): Feb. 10, considered and passed House, amended.

Mar. 2, Senate concurred in House amendments.

Public Law 97-154  
97th Congress

Joint Resolution

To designate October 1982 as "National P.T.A. Membership Month".

Mar. 16, 1982

[S.J. Res. 105]

Whereas the National Congress of Parents and Teachers was founded in 1897 as an advocate for children and youth; and

Whereas the National Parent Teacher Association represents over twenty-nine thousand State and local units with over six million active members and is a volunteer organization concerned with improving the educational opportunities and quality of life for all children and youth; and

Whereas the Parent Teacher Association seeks to raise the standards of home life and to secure for all children and youth the highest advantages in physical, mental, social, and spiritual education: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the month of October 1982 is designated "National P.T.A. Membership Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

National P.T.A.  
Membership  
Month.

Approved March 16, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 105:

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 16, considered and passed Senate.

Vol. 128 (1982): Feb. 10, considered and passed House, amended.

Mar. 2, Senate concurred in House amendments.



Public Law 97-155  
97th Congress

## An Act

Mar. 17, 1982  
[H.R. 4625]

To authorize the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the United States Army at the end of World War II.

Federal Republic  
of Germany,  
return of certain  
seized works  
of art.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Secretary of the Army may transfer to the Federal Republic of Germany, without compensation, title to, and custody of, certain works of art seized from the German Government by the United States Army after World War II. Before any such transfer may be made, the Secretary of the Army shall establish an interdepartmental committee to review such works of art. Such committee shall include one member designated by the United States Holocaust Memorial Council (established pursuant to the Act entitled "An Act to establish the United States Memorial Council" (94 Stat. 1547; 36 U.S.C. 1402)). Any such work of art determined by the committee to be inappropriate for such transfer under the provisions of part II, section A, of the Protocol of the Proceedings of the Berlin (Potsdam) Conference of July 17 through August 2, 1945, may not be so transferred.

Prohibition.

(b) No funds of the United States may be expended in connection with any transportation or handling costs incidental to any transfer authorized by subsection (a).

Approved March 17, 1982.

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LEGISLATIVE HISTORY—H.R. 4625:

HOUSE REPORT No. 97-298 (Comm. on Armed Services).

SENATE REPORT No. 97-291 (Comm. on Armed Services).

## CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 4, considered and passed House.

Vol. 128 (1982): Feb. 25, considered and passed Senate, amended.

Mar. 2, House concurred in Senate amendments.

Public Law 97-156  
97th Congress

Joint Resolution

To proclaim March 18, 1982, as "National Agriculture Day".

Mar. 18, 1982  
[S.J. Res. 148]

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together provide more jobs than any other single industry; and Whereas the productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and on the world scene; and

Whereas to maintain a healthy agriculture it is necessary that all Americans should understand how agriculture affects their lives and well-being, and should be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That March 18, 1982, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

National  
Agriculture Day.

Approved March 18, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Mar. 4, considered and passed Senate.  
Mar. 11, considered and passed House.

Public Law 97-157  
97th Congress

## Joint Resolution

Mar. 22, 1982  
[H.J. Res. 373]

Expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the thirty-eighth meeting of the United Nations Commission on Human Rights at Geneva in February 1982.

Whereas the Soviet authorities have mounted a triple assault on their Jewish community, (1) the number of Jews allowed to emigrate has been reduced from a high of four thousand seven hundred and forty-six in the month of October 1979 to a total of only nine thousand four hundred in all of 1981, the lowest number since emigration began, (2) frequent harassments, arrests, and trials have become an almost daily occurrence, and (3) unparalleled assaults on Jewish self-study groups occur in the major urban areas; and

Whereas such harassment and obstacles to free movement violate the obligations of the Soviet Union to respect the rights of freedom of thought, conscience, expression, religion, and emigration, as provided for in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, and the Constitution of the Union of Soviet Socialist Republics: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that—

United Nations  
Commission on  
Human Rights,  
Geneva, 1982.  
U.S. delegation.

(1) the President should instruct the United States delegation to the United Nations Commission on Human Rights meeting in Geneva in February 1982 to carry to the Commission the message that the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, should stop its harassments, arrests, and trials of the members of its Jewish community, and should stop its assaults on Jewish self-study groups;

(2) the Government of the Soviet Union should comply with its obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, and the Constitution of the Union of Soviet Socialist Republics, by ceasing the indiscriminate arrests and trials of Jewish activists, by ending the assaults on Jewish self-study groups, and by opening its doors to those who wish to emigrate;

(3) the President should express to the Government of the Soviet Union the strong and continuing opposition of the United States to such harassment of its citizenry, and the obstacles it presents to those who wish to emigrate; and

(4) the President should reiterate to the Government of the Soviet Union that the United States, in evaluating its relations

with other nations, will consider the extent to which they honor their commitments under international law, particularly their commitments concerning human rights.

SEC. 2. The President shall transmit copies of this resolution to the Ambassador of the Soviet Union to the United States and to the Chairman of the Presidium of the Supreme Soviet.

Approved March 22, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 373 (S.J. Res. 154):**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 2, considered and passed House.

Mar. 4, S.J. Res. 154 considered in Senate; H.J. Res. 373 considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 12 (1982):

Mar. 22, Presidential statement.

Public Law 97-158  
97th Congress

Joint Resolution

Mar. 22, 1982  
[H.J. Res. 348]

To provide for the awarding of a special gold medal to Her Majesty Queen Beatrix in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between the Netherlands and the United States.

Whereas Dutch antecedents in the United States go back to the early 1600's when a few doughty Dutch began to explore and settle Manhattan Island and the Hudson River Valley;

Whereas the Netherlands became the first nation in 1776 to salute the flag of the new American Nation;

Whereas John Adams, first United States Minister to the Netherlands and second President of the United States, signed a mutually advantageous Treaty to Amity and Commerce with the Netherlands in the decisive year of 1782;

Whereas the Netherlands was the source of a series of needed loans starting in 1782, which eventually totaled the equivalent of \$12 million;

Whereas it is with the Netherlands that the United States has its longest peaceful and unbroken relationship;

Whereas the year 1982 will mark the two hundredth anniversary of the opening of diplomatic relations with the Netherlands;

Whereas these two centuries of official relations have been based on exemplary friendship, mutual trust and respect, and a perceived interest in practical forms of cooperation;

Whereas the thirty-six years of vigilant peace since the end of World War II have seen a remarkable growth in the United States-Dutch relationship; and

Whereas, in keeping with the spirit and content of the Treaty of Amity and Commerce, the United States and the Netherlands have become active partners in defense and commerce: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President of the United States is authorized to present, on behalf of the Congress, to Her Majesty Queen Beatrix, a gold medal of appropriate design in recognition of the two hundredth anniversary, in 1982, of the establishment of diplomatic and commercial relations between the Governments of the United States and the Netherlands. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed \$22,000 after November 1, 1981, to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery overhead expenses, and the gold medal. The appropriation used to carry out the provisions

Her Majesty  
Queen Beatrix of  
the Netherlands.  
Gold Medal.

Appropriation  
authorization.

Duplicates.

of this subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved March 22, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 348 (S.J. Res. 157):**

**CONGRESSIONAL RECORD, Vol. 128 (1982):**

Mar. 2, considered and passed House.

Mar. 4, S.J. Res. 157 considered in Senate; H.J. Res. 348 considered and passed Senate.

Public Law 97-159  
97th Congress

An Act

Mar. 24, 1982  
[S. 2166]

To provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak".

"Montana: The  
People Speak."  
Broadcast  
distribution.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the International Communication Agency shall make available to the Administrator of General Services a master copy of the slide show entitled "Montana: The People Speak"; and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that slide show within the United States, shall deposit that slide show in the National Archives of the United States, and shall make copies of that slide show available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the International Communication Agency.

Approved March 24, 1982.

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LEGISLATIVE HISTORY—S. 2166:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 15, considered and passed Senate.

Mar. 23, considered and passed House.

Public Law 97-160  
97th Congress

An Act

To temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

Mar. 26, 1982  
[S. 2254]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 et seq.) is amended—

(1) by striking out “over a 3-year period” in the first sentence of section 2;

(2) by striking out “the end of the 3-year period which begins on the effective date of this title” in section 102(c) and inserting in lieu thereof “the first day of the second pay period beginning after July 4, 1982”; and

(3) by striking out “the end of the 3-year period which begins on the effective date of this title” in section 202(d) and inserting in lieu thereof “the first day of the second pay period beginning after July 4, 1982”.

Federal  
Employees  
Flexible and  
Compressed  
Work Schedules  
Act of 1978,  
extension.  
5 USC 6101 note.  
5 USC 6101 note.

5 USC 6101 note.

Approved March 26, 1982.

LEGISLATIVE HISTORY—S. 2254:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 22, considered and passed Senate.

Mar. 23, considered and passed House.



Public Law 97-161  
97th Congress

## Joint Resolution

Mar. 31, 1982

[H.J. Res. 409]

Making further continuing appropriations for the fiscal year 1982.

Further  
continuing  
appropriations  
for fiscal year  
1982.  
95 Stat. 1193.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 102(c) of the joint resolution of December 15, 1981 (Public Law 97-92), is hereby amended by striking out "March 31, 1982" and inserting in lieu thereof "September 30, 1982".

Approved March 31, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 409:

HOUSE REPORT No. 97-465 (Comm. on Appropriations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 24, considered and passed House.

Mar. 29-31, considered and passed Senate.

Public Law 97-162  
97th Congress

An Act

To amend the Federal Grant and Cooperative Agreement Act.

Apr. 1, 1982

[S. 892]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 10(d) of the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 41 U.S.C. 501 note) is amended by deleting the sentence: "This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act."

Federal Grant  
and Cooperative  
Agreement Act  
of 1977,  
amendment.

Approved April 1, 1982.

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LEGISLATIVE HISTORY—S. 892 (H.R. 3943):

HOUSE REPORT No. 97-450 accompanying H.R. 3943 (Comm. on Government Operations).

SENATE REPORT No. 97-180 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 22, considered and passed Senate.

Vol. 128 (1982): Mar. 23, H.R. 3943 considered and passed House; proceedings vacated and S. 892 passed in lieu.

Public Law 97-163  
97th Congress

## An Act

Apr. 1, 1982  
[S. 1937]**To extend the expiration date of section 252 of the Energy Policy and Conservation Act.**Energy Policy  
and  
Conservation  
Act,  
extension.  
95 Stat. 957.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "April 1, 1982", and inserting in its place "June 1, 1982".*

Approved April 1, 1982.

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**LEGISLATIVE HISTORY—S. 1937 (H.R. 5789):****HOUSE REPORT** No. 97-474 accompanying H.R. 5789 (Comm. on Energy and Commerce).**CONGRESSIONAL RECORD**, Vol. 128 (1982):

Mar. 31, considered and passed Senate.

Apr. 1, H.R. 5789 considered and passed House; proceedings vacated and S. 1937 passed in lieu.

Public Law 97-164  
97th Congress

An Act

To establish a United States Court of Appeals for the Federal Circuit, to establish a United States Claims Court, and for other purposes.

Apr. 2, 1982  
[H.R. 4482]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Courts Improvement Act of 1982".*

Federal Courts  
Improvement  
Act  
of 1982.  
28 USC 1 note.

**TITLE I—UNITED STATES COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT AND UNITED STATES CLAIMS COURT**

**PART A—ORGANIZATION, STRUCTURE, AND JURISDICTION**

**NUMBER AND COMPOSITION OF CIRCUITS**

SEC. 101. Section 41 of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended by striking out "twelve" and inserting in lieu thereof "thirteen" and by adding at the end thereof the following:

"Federal..... All Federal judicial districts."

**NUMBER OF CIRCUIT JUDGES**

SEC. 102. (a) Section 44(a) of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended by adding at the end thereof the following:

"Federal..... 12".

(b) Section 44(c) of title 28, United States Code, is amended by adding the following sentence at the end thereof: "While in active service, each circuit judge of the Federal judicial circuit appointed after the effective date of this Act, and the chief judge of the Federal judicial circuit, whenever appointed, shall reside within fifty miles of the District of Columbia."

**PANELS OF JUDGES; NUMBER OF JUDGES FOR HEARINGS**

SEC. 103. (a) Section 46(a) of title 28, United States Code, is amended by striking out "divisions" and inserting in lieu thereof "panels".

(b) Section 46(b) of title 28, United States Code, is amended—

(1) by striking out "divisions" each place it appears and inserting in lieu thereof "panels";

(2) by inserting immediately before the period at the end of the first sentence the following: " , at least a majority of whom shall be judges of that court, unless such judges cannot sit because recused or disqualified, or unless the chief judge of that court certifies that there is an emergency including, but

not limited to, the unavailability of a judge of the court because of illness"; and

(3) by adding at the end thereof the following new sentence: "The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel to panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than three, who constitute a panel."

(c) The first sentence of section 46(c) of title 28, United States Code, is amended by inserting immediately after "three judges" the following: "(except that the United States Court of Appeals for the Federal Circuit may sit in panels of more than three judges if its rules so provide)".

(d) Section 46(d) of title 28, United States Code, is amended by striking out "division" and inserting in lieu thereof "panel".

#### PLACES FOR HOLDING COURT

SEC. 104. (a) Section 48 of title 28, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following:

"(a) The courts of appeals shall hold regular sessions at the places listed below, and at such other places within the respective circuit as each court may designate by rule."

(b) Section 48 of title 28, United States Code, as amended by the Fifth Circuit Court of Appeals Reorganization Act of 1980 (Public Law 96-452; 94 Stat. 1994), is amended further by inserting at the end of the table of circuits and places the following:

"Federal.....	District of Columbia, and in any other place listed above as the court by rule directs."
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(c) Section 48 of title 28, United States Code, is amended further by striking out the final paragraph and inserting in lieu thereof the following:

"(b) Each court of appeals may hold special sessions at any place within its circuit as the nature of the business may require, and upon such notice as the court orders. The court may transact any business at a special session which it might transact at a regular session.

"(c) Any court of appeals may pretermitt, with the consent of the Judicial Conference of the United States, any regular session of court at any place for insufficient business or other good cause.

"(d) The times and places of the sessions of the Court of Appeals for the Federal Circuit shall be prescribed with a view to securing reasonable opportunity to citizens to appear before the court with as little inconvenience and expense to citizens as is practicable."

#### ORGANIZATION OF UNITED STATES CLAIMS COURT

SEC. 105. (a) Chapter 7 of title 28, United States Code, is amended to read as follows:

**“CHAPTER 7—UNITED STATES CLAIMS COURT**

**“Sec.**

**“171. Appointment and number of judges; character of court; designation of chief judge.**

**“172. Tenure and salaries of judges.**

**“173. Times and places of holding court.**

**“174. Assignment of judges; decisions.**

**“175. Official duty station; residence.**

**“176. Removal from office.**

**“177. Disbarment of removed judges.**

**“§ 171. Appointment and number of judges; character of court; designation of chief judge** 28 USC 171.

**“(a) The President shall appoint, by and with the advice and consent of the Senate, sixteen judges who shall constitute a court of record known as the United States Claims Court. The court is declared to be a court established under article I of the Constitution of the United States.**

USC prec.  
title 1.

**“(b) The President shall designate one of the judges of the Claims Court who is less than seventy years of age to serve as chief judge. The chief judge may continue to serve as such until he reaches the age of seventy years or until another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court for the balance of the term to which appointed.**

**“§ 172. Tenure and salaries of judges** 28 USC 172.

**“(a) Each judge of the United States Claims Court shall be appointed for a term of fifteen years.**

**“(b) Each judge shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title.**

**“§ 173. Times and places of holding court** 28 USC 173.

**“The principal office of the United States Claims Court shall be in the District of Columbia, but the Claims Court may hold court at such times and in such places as it may fix by rule of court. The times and places of the sessions of the Claims Court shall be prescribed with a view to securing reasonable opportunity to citizens to appear before the Claims Court with as little inconvenience and expense to citizens as is practicable.**

**“§ 174. Assignment of judges; decisions** 28 USC 174.

**“(a) The judicial power of the United States Claims Court with respect to any action, suit, or proceeding, except congressional reference cases, shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.**

**“(b) All decisions of the Claims Court shall be preserved and open to inspection.**

**“§ 175. Official duty station; residence** 28 USC 175.

**“(a) The official duty station of each judge of the United States Claims Court is the District of Columbia.**

**“(b) After appointment and while in active service, each judge shall reside within fifty miles of the District of Columbia.**

28 USC 176.

**“§ 176. Removal from office**

“(a) Removal of a judge of the United States Claims Court during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability. Removal shall be by the United States Court of Appeals for the Federal Circuit, but removal may not occur unless a majority of all the judges of such court of appeals concur in the order of removal.

“(b) Before any order of removal may be entered, a full specification of the charges shall be furnished to the judge involved, and such judge shall be accorded an opportunity to be heard on the charges.

“(c) Any cause for removal of any judge of the United States Claims Court coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the United States Court of Appeals for the Federal Circuit, and a copy of the report shall at the same time be transmitted to the judge.

28 USC 177.

**“§ 177. Disbarment of removed judges**

“A judge of the United States Claims Court removed from office in accordance with section 176 of this title shall not be permitted at any time to practice before the Claims Court.”

(b) The item relating to chapter 7 in the chapter analysis of part I of title 28, United States Code, is amended to read as follows:

“7. United States Claims Court ..... 171”.

**REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND  
PATENT APPEALS**

28 USC 221  
*et seq.*

SEC. 106. Chapter 9 of title 28, United States Code, and the item relating to chapter 9 in the chapter analysis of part I of such title, are repealed.

**INTERLOCUTORY APPEALS FROM CERTAIN ORDERS**

SEC. 107. Section 256(b) of title 28, United States Code, is amended by striking out “section 1541(b)” and all that follows through “in that section.” and inserting in lieu thereof the following: “section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.”

**REPEAL; ASSIGNMENT OF CIRCUIT JUDGES**

SEC. 108. (a) Subsection (b) of section 291 of title 28, United States Code, is repealed.

(b) Subsection (c) of such section is amended by striking out “(c)” and inserting in lieu thereof “(b)”.

**ASSIGNMENT OF DISTRICT JUDGES**

SEC. 109. Section 292(e) of title 28, United States Code, is amended by striking out “the Court of Claims, the Court of Customs and Patent Appeals or” and by striking out “in which the need arises”.

## REPEAL; ASSIGNMENT OF OTHER JUDGES

SEC. 110. (a) Section 293 of title 28, United States Code, is amended—

(1) by repealing subsections (a), (c), and (d);

(2) by redesignating subsection (b) as subsection (a); and

(3) by redesignating subsection (e), as that subsection will become effective on April 1, 1984, as subsection (b).

(b) The section heading of section 293 of title 28, United States Code, is amended to read as follows:

“§ 293. Judges of the Court of International Trade”.

(c) The item relating to section 293 in the section analysis of chapter 13 of title 28, United States Code, is amended to read as follows:

“293. Judges of the Court of International Trade.”.

(d) Section 160(a) of title 28, United States Code, as that section will become effective on April 1, 1984, is amended by striking out “293(e)” and inserting in lieu thereof “293(b)”.

## JUDICIAL CONFERENCE

SEC. 111. Section 331 of title 28, United States Code, is amended—

(1) in the first paragraph, by striking out “, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals,”; and

(2) in the third paragraph, by striking out the second sentence.

## RETIREMENT

SEC. 112. (a) Section 372(a) of title 28, United States Code, is amended—

(1) in the third paragraph, by striking out “Court of Claims, Court of Customs and Patent Appeals, or”; and

(2) in the fifth paragraph, by striking out “Court of Claims, Court of Customs and Patent Appeals, or”.

(b) Section 372(b) of title 28, United States Code, is amended by striking out “Court of Claims, Court of Customs and Patent Appeals, or” each place it appears.

(c) Section 372(c)(17) of title 28, United States Code, is amended by striking out “Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court” and inserting in lieu thereof “United States Claims Court, the Court of International Trade, and the Court of Appeals for the Federal Circuit”.

## REPEAL; DISTRIBUTION OF COURT OF CLAIMS DECISIONS

SEC. 113. Section 415 of title 28, United States Code, and the item relating to section 415 in the section analysis of chapter 19 of such title, are repealed.

## DEFINITIONS

SEC. 114. Section 451 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended—



(1) in the first definition, relating to court of the United States, by striking out “the Court of Claims, the Court of Customs and Patent Appeals,”; and

(2) in the third definition, relating to judge of the United States, by striking out “Court of Claims, Court of Customs and Patent Appeals,”.

#### TRAVELING EXPENSES AND COURT ACCOMMODATIONS

SEC. 115. (a)(1) Section 456 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended to read as follows:

#### “§ 456. Traveling expenses of justices and judges; official duty stations

“(a) The Director of the Administrative Office of the United States Courts shall pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official duty station for any continuous period of less than thirty calendar days (1) all necessary transportation expenses certified by the justice or judge; and (2) a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5. The Director of the Administrative Office of the United States Courts shall also pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business under an assignment authorized under chapter 13 of this title which exceeds in duration a continuous period of thirty calendar days, all necessary transportation expenses and actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States.

“(b) The official duty station of the Chief Justice of the United States, the Justices of the Supreme Court of the United States, and the judges of the United States Court of Appeals for the District of Columbia Circuit, the United States Court of Appeals for the Federal Circuit, and the United States District Court for the District of Columbia shall be the District of Columbia.

“(c) The official duty station of the judges of the United States Court of International Trade shall be New York City.

“(d) The official duty station of each district judge shall be that place where a district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.

“(e) The official duty station of a circuit judge shall be that place where a circuit or district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, or that place where the Director provides chambers to the judge where he performs a substantial portion of his judicial work, which

is nearest the place where he maintains his actual abode in which he customarily lives.

“(f) The official duty station of a retired judge shall be established in accordance with section 374 of this title.

28 USC 374.  
Notification to  
Director, Admin-  
istrative Office,  
U.S. Courts.

“(g) Each circuit or district judge whose official duty station is not fixed expressly by this section shall notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and official duty station upon his appointment and from time to time thereafter as his official duty station may change.”.

(2) The item relating to section 456 in the section analysis of chapter 21 of title 28, United States Code, is amended to read as follows:

“456. Traveling expenses of justices and judges; official duty stations.”.

(b)(1) Section 460 of title 28, United States Code, is amended to read as follows:

**“§ 460. Application to other courts**

“(a) Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Claims Court, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof. *Infra.*

“(b) The official duty station of each judge referred to in subsection (a) which is not otherwise established by law shall be that place where the court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives.”.

(2) The item relating to section 460 in the section analysis of chapter 21 of title 28, United States Code, is amended to read as follows:

“460. Application to other courts.”.

(c)(1) Chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

**“§ 462. Court accommodations**

28 USC 462.

“(a) Sessions of courts of the United States (except the Supreme Court) shall be held only at places where the Director of the Administrative Office of the United States Courts provides accommodations, or where suitable accommodations are furnished without cost to the judicial branch.

“(b) The Director of the Administrative Office of the United States Courts shall provide accommodations, including chambers and courtrooms, only at places where regular sessions of court are authorized by law to be held, but only if the judicial council of the appropriate circuit has approved the accommodations as necessary.

“(c) The limitations and restrictions contained in subsection (b) of this section shall not prevent the Director from furnishing chambers to circuit judges at places where Federal facilities are available when the judicial council of the circuit approves.

“(d) The Director of the Administrative Office of the United States Courts shall provide permanent accommodations for the United States Court of Appeals for the Federal Circuit and for the United States Claims Court only at the District of Columbia. How-

ever, each such court may hold regular and special sessions at other places utilizing the accommodations which the Director provides to other courts.

“(e) The Director of the Administrative Office of the United States Courts shall provide accommodations for probation officers, pretrial service officers, and Federal Public Defender Organizations at such places as may be approved by the judicial council of the appropriate circuit.

“(f) Upon the request of the Director, the Administrator of General Services is authorized and directed to provide the accommodations the Director requests, and to close accommodations which the Director recommends for closure with the approval of the Judicial Conference of the United States.”.

(2) The section analysis of chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“462. Court accommodations.”.

Repeal.

(3) Section 142 of title 28, United States Code, and the item relating to section 142 in the section analysis of chapter 5 of such title, are repealed.

#### EXPENSES OF LITIGATION

SEC. 116. (a) Chapter 21 of title 28, United States Code, as amended by section 115 of this Act, is further amended by adding at the end thereof the following new section:

28 USC 463.

#### “§ 463. Expenses of litigation

28 USC 501  
et seq.

“Whenever a Chief Justice, justice, judge, officer, or employee of any United States court is sued in his official capacity, or is otherwise required to defend acts taken or omissions made in his official capacity, and the services of an attorney for the Government are not reasonably available pursuant to chapter 31 of this title, the Director of the Administrative Office of the United States Courts may pay the costs of his defense. The Director shall prescribe regulations for such payments subject to the approval of the Judicial Conference of the United States.”.

(b) The analysis of chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“463. Expenses of litigation.”.

#### INTERESTS OF THE UNITED STATES IN CERTAIN ACTIONS

SEC. 117. Section 518(a) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court or in the United States Court of Appeals for the Federal Circuit”.

#### TRANSMISSION OF PETITIONS IN SUITS AGAINST THE UNITED STATES

SEC. 118. (a) Section 520 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court or in the United States Court of Appeals for the Federal Circuit”; and

(2) by striking out "Court of Claims" in the section heading and inserting in lieu thereof "United States Claims Court or in United States Court of Appeals for the Federal Circuit".

(b) The item relating to section 520 in the section analysis of chapter 31 of title 28, United States Code, is amended to read as follows:

"520. Transmission of petitions in United States Claims Court or in United States Court of Appeals for the Federal Circuit; statement furnished by departments."

#### BUDGET ESTIMATES

SEC. 119. (a) Section 605 of title 28, United States Code, is amended—

(1) by inserting immediately before the period at the end of the second undesignated paragraph the following: "and the estimate with respect to the United States Court of Appeals for the Federal Circuit shall be approved by such court"; and

(2) by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

(b) Funds appropriated to the Court of Customs and Patent Appeals and the Court of Claims for fiscal year 1982 shall be made available for the operation of the United States Court of Appeals for the Federal Circuit and the United States Claims Court. Such sums shall be apportioned among the new appropriations as determined by the Director of the Administrative Office of the United States Courts in consultation with the chief judges of the respective courts.

#### DEFINITION OF COURTS

SEC. 120. (a) Section 610 of title 28, United States Code, is amended by striking out "the Court of Claims, the Court of Customs and Patent Appeals" and inserting in lieu thereof "the United States Claims Court".

(b)(1) Section 713 of title 28, United States Code, is amended to read as follows:

##### "§ 713. Librarians

"(a) Each court of appeals may appoint a librarian who shall be subject to removal by the court.

"(b) The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve. The librarian may remove such library assistants with the approval of the court."

(2) The item relating to section 713 in the section analysis of chapter 47, United States Code, is amended to read as follows:

"713. Librarians."

(c)(1) Chapter 47 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

##### "§ 714. Criers and messengers

"(a) Each court of appeals may appoint a crier who shall be subject to removal by the court.

"(b) The crier, with the approval of the court, may appoint necessary messengers in such number as the Director of the Administra-

28 USC 714.

tive Office of the United States Courts may approve. The crier may remove such messengers with the approval of the court. The crier shall also perform the duties of bailiff and messenger.

28 USC 715.

**“§ 715. Staff attorneys and technical assistants**

“(a) The chief judge of each court of appeals, with the approval of the court, may appoint a senior staff attorney, who shall be subject to removal by the chief judge with the approval of the court.

“(b) The senior staff attorney, with the approval of the chief judge, may appoint necessary staff attorneys and secretarial and clerical employees in such numbers as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of staff attorneys exceed the number of positions expressly authorized in an annual appropriation Act. The senior staff attorney may remove such staff attorneys and secretarial and clerical employees with the approval of the chief judge.

“(c) The chief judge of the Court of Appeals for the Federal Circuit, with the approval of the court, may appoint a senior technical assistant who shall be subject to removal by the chief judge with the approval of the court.

“(d) The senior technical assistant, with the approval of the court, may appoint necessary technical assistants in such number as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of technical assistants in the Court of Appeals for the Federal Circuit exceed the number of circuit judges in regular active service within such circuit. The senior technical assistant may remove such technical assistants with the approval of the court.”.

(2) The section analysis of chapter 47, United States Code, is amended by adding at the end thereof the following new items:

“714. Criers and messengers.

“715. Staff attorneys and technical assistants.”.

**OFFICERS AND EMPLOYEES OF THE UNITED STATES CLAIMS COURT**

SEC. 121. (a) Section 791 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a) The United States Claims Court may appoint a clerk, who shall be subject to removal by the court. The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court.”.

Repeal.

(b) Section 792 of title 28, United States Code, and the item relating to section 792 in the section analysis of chapter 51 of such title, are repealed.

(c)(1) Section 794 of title 28, United States Code, is amended to read as follows:

**“§ 794. Law clerks and secretaries**

“The judges of the United States Claims Court may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve, subject to any limitation of the aggregate salaries of such employees which may be imposed by law.”.

(2) The item relating to section 794 in the section analysis of chapter 51 of title 28, United States Code, is amended to read as follows:

“794. Law clerks and secretaries.”.

(d)(1) Section 795 of title 28, United States Code, is amended to read as follows:

**“§ 795. Bailiffs and messengers**

“The chief judge of United States Claims Court, with the approval of the court, may appoint necessary bailiffs and messengers, in such numbers as the Director of the Administrative Office of the United States Courts may approve, each of whom shall be subject to removal by the chief judge, with the approval of the court.”.

(2) The item relating to section 795 in the section analysis of chapter 51 of title 28, United States Code, is amended to read as follows:

“795. Bailiffs and messengers.”.

(e) Section 796 of title 28, United States Code, is amended by striking out “The Court of Claims” and inserting in lieu thereof “Subject to the approval of the United States Claims Court, the Director of the Administrative Office of the United States Courts”.

(f)(1) Section 797 of title 28, United States Code, is amended to read as follows:

**“§ 797. Recall of retired judges**

“(a) Any judge of the United States Claims Court who has retired from regular active service under subchapter III of chapter 83 of title 5 shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section.

5 USC 8331.

“(b) The chief judge of the Claims Court may, whenever he deems it advisable, recall any senior judge, with such judge’s consent, to perform such duties as a judge and for such period of time as the chief judge may specify.

“(c) Any senior judge performing duties pursuant to this section shall not be counted as a judge for purposes of the number of judgeships authorized by section 171 of this title.

*Ante*, p. 27.

“(d) Any senior judge, while performing duties pursuant to this section, shall be paid the same allowances for travel and other expenses as a judge in active service. Such senior judge shall also receive from the Claims Court supplemental pay in an amount sufficient, when added to his civil service retirement annuity, to equal the salary of a judge in active service for the same period or periods of time. Such supplemental pay shall be paid in the same manner as the salary of a judge.”.

Supplemental pay.

(2) The item relating to section 797 in the section analysis of chapter 51 of title 28, United States Code, is amended by striking out “commissioners” and inserting in lieu thereof “judges”.

(g)(1) The item relating to chapter 51 in the chapter analysis of part III of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(2) The chapter heading of chapter 51 of title 28, United States Code, is amended by striking out "COURT OF CLAIMS" and inserting in lieu thereof "UNITED STATES CLAIMS COURT".

**ABOLISHMENT OF UNITED STATES COURT OF CUSTOMS AND PATENT  
APPEALS**

Repeal.  
28 USC 831  
et seq.

SEC. 122. (a) Chapter 53 of title 28, United States Code, and the item relating to chapter 53 in the chapter analysis of part III of such title, are repealed.

(b) Section 957 of title 28, United States Code, is amended—  
(1) in subsection (a) by striking out "(a)", and  
(2) by repealing subsection (b).

**TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPEAL OF  
COURT OF CUSTOMS AND PATENT APPEALS**

SEC. 123. Sections 1255 and 1256 of title 28, United States Code, and the items relating to sections 1255 and 1256 in the section analysis of chapter 81 of such title, are repealed.

**COURTS OF APPEALS JURISDICTION**

SEC. 124. Section 1291 of title 28, United States Code, is amended—

(1) by inserting "(other than the United States Court of Appeals for the Federal Circuit)" after "courts of appeals"; and  
(2) by adding at the end thereof the following new sentence:  
"The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292 (c) and (d) and 1295 of this title."

*Infra;*  
*post*, p. 37.

**INTERLOCUTORY DECISIONS**

SEC. 125. (a) Section 1292(a) of title 28, United States Code, is amended—

(1) by striking out "The courts" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, the courts";

(2) by striking out the semicolon at the end of paragraph (3) and inserting in lieu thereof a period; and

(3) by striking out paragraph (4).

(b) Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

Exclusive  
jurisdiction.

"(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

"(1) of an appeal from an interlocutory order or decree described in subsection (a) of this section in any case over which the court would have jurisdiction of an appeal under section 1295 of this title; and

*Post*, p. 37.

"(2) of an appeal from a judgment in a civil action for patent infringement which would otherwise be appealable to the United States Court of Appeals for the Federal Circuit and is final except for an accounting.

*Ante*, p. 28.

"(d)(1) When the chief judge of the Court of International Trade issues an order under the provisions of section 256(b) of this title, or when any judge of the Court of International Trade, in issuing

any other interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

“(2) When any judge of the United States Claims Court, in issuing an interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

“(3) Neither the application for nor the granting of an appeal under this subsection shall stay proceedings in the Court of International Trade or in the Claims Court, as the case may be, unless a stay is ordered by a judge of the Court of International Trade or of the Claims Court or by the United States Court of Appeals for the Federal Circuit or a judge of that court.”.

Stay of appeal.

#### CIRCUITS IN WHICH DECISIONS ARE REVIEWABLE

SEC. 126. Section 1294 of title 28, United States Code (including that section as it will become effective on April 1, 1984), is amended by striking out “Appeals” and inserting in lieu thereof “Except as provided in sections 1292(c), 1292(d), and 1295 of this title, appeals”.

*Ante*, p. 36;  
*Infra*.

#### JURISDICTION OF THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SEC. 127. (a) Chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

#### “§ 1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit

28 USC 1295.

“(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

“(1) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was based, in whole or in part, on section 1338 of this title, except that a case involving a claim arising under any Act of Congress relating to copyrights or trademarks and no other claims under section 1338(a) shall be governed by sections 1291, 1292, and 1294 of this title;

“(2) of an appeal from a final decision of a district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, if the jurisdiction of that court was



28 USC 1346.

based, in whole or in part, on section 1346 of this title, except that jurisdiction of an appeal in a case brought in a district court under section 1346(a)(1), 1346(b), 1346(e), or 1346(f) of this title or under section 1346(a)(2) when the claim is founded upon an Act of Congress or a regulation of an executive department providing for internal revenue shall be governed by sections 1291, 1292, and 1294 of this title;

“(3) of an appeal from a final decision of the United States Claims Court;

“(4) of an appeal from a decision of—

“(A) the Board of Appeals or the Board of Patent Interferences of the Patent and Trademark Office with respect to patent applications and interferences, at the instance of an applicant for a patent or any party to a patent interference, and any such appeal shall waive the right of such applicant or party to proceed under section 145 or 146 of title 35;

“(B) the Commissioner of Patents and Trademarks or the Trademark Trial and Appeal Board with respect to applications for registration of marks and other proceedings as provided in section 21 of the Trademark Act of 1946 (15 U.S.C. 1071); or

“(C) a district court to which a case was directed pursuant to section 145 or 146 of title 35;

“(5) of an appeal from a final decision of the United States Court of International Trade;

“(6) to review the final determinations of the United States International Trade Commission relating to unfair practices in import trade, made under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337);

“(7) to review, by appeal on questions of law only, findings of the Secretary of Commerce under headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (relating to importation of instruments or apparatus);

“(8) of an appeal under section 71 of the Plant Variety Protection Act (7 U.S.C. 2461);

“(9) of an appeal from a final order or final decision of the Merit Systems Protection Board, pursuant to sections 7703(b)(1) and 7703(d) of title 5; and

“(10) of an appeal from a final decision of an agency board of contract appeals pursuant to section 8(g)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)(1)).

“(b) The head of any executive department or agency may, with the approval of the Attorney General, refer to the Court of Appeals for the Federal Circuit for judicial review any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by that department or agency which the head of such department or agency has concluded is not entitled to finality pursuant to the review standards specified in section 10(b) of the Contract Disputes Act of 1978 (41 U.S.C. 609(b)). The head of each executive department or agency shall make any referral under this section within one hundred and twenty days after the receipt of a copy of the final appeal decision.

“(c) The Court of Appeals for the Federal Circuit shall review the matter referred in accordance with the standards specified in section 10(b) of the Contract Disputes Act of 1978. The court shall proceed with judicial review on the administrative record made before

19 USC 1202  
note.

Post, p. 45.

Post, p. 47.

the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, if appropriate, render judgment thereon, or remand the matter to any administrative or executive body or official with such direction as it may deem proper and just.

**“§ 1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit**

28 USC 1296.

“Civil actions in the United States Court of Appeals for the Federal Circuit shall be given precedence, in accordance with the law applicable to such actions, in such order as the court may by rule establish.”

(b) The section analysis of chapter 83 of title 28, United States Code, is amended by adding at the end thereof the following new items:

“1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit.  
“1296. Precedence of cases in the United States Court of Appeals for the Federal Circuit.”.

**INTERSTATE COMMERCE COMMISSION ORDERS; JURISDICTION**

SEC. 128. Section 1336(b) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

**UNITED STATES AS DEFENDANT; JURISDICTION**

SEC. 129. Section 1346(a) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

**INTERSTATE COMMERCE COMMISSION ORDERS; VENUE**

SEC. 130. Section 1398(b) of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

**UNITED STATES AS DEFENDANT; VENUE**

SEC. 131. Section 1402(a) of title 28, United States Code, is amended by inserting “in a district court” after “civil action”.

**CURE OR WAIVER OF DEFECTS**

SEC. 132. Section 1406 of title 28, United States Code, is amended—

- (1) by repealing subsection (c); and
- (2) by redesignating subsection (d) as subsection (c).

**UNITED STATES CLAIMS COURT JURISDICTION AND VENUE**

SEC. 133. (a) Section 1491 of title 28, United States Code, is amended to read as follows:

**“§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority**

“(a)(1) The United States Claims Court shall have jurisdiction to render judgment upon any claim against the United States founded

USC prec. title 1.

either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

“(2) To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just. The Claims Court shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of the Contract Disputes Act of 1978.

41 USC 609.

“(3) To afford complete relief on any contract claim brought before the contract is awarded, the court shall have exclusive jurisdiction to grant declaratory judgments and such equitable and extraordinary relief as it deems proper, including but not limited to injunctive relief. In exercising this jurisdiction, the court shall give due regard to the interests of national defense and national security.

“(b) Nothing herein shall be construed to give the United States Claims Court jurisdiction of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority.”.

16 USC 831.

(b) Section 1492 of title 28, United States Code, is amended by striking out “chief commissioner of the Court of Claims” and inserting in lieu thereof “chief judge of the United States Claims Court”.

(c)(1) Sections 1494, 1495, 1496, and 1497 of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(2) The section heading of section 1497 of title 28, United States Code, is amended by striking out “growers,” and inserting in lieu thereof “growers”.

(d) Section 1498 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) in subsections (b) and (d), by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”.

(e)(1) Sections 1499, 1500, 1501, 1502, and 1503 of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(2)(A) The section heading of section 1499 of title 28, United States Code, is amended by inserting “and Safety” after “Hours”.

(B) The item relating to section 1499 in the section analysis of chapter 91 of title 28, United States Code, is amended to read as follows:

“1499. Liquidated damages withheld from contractors under Contract Work Hours and Safety Standards Act.”.

(f) Section 1504 of title 28, United States Code, and the item relating to section 1504 in the section analysis of chapter 91 of such title, are repealed. Repeal.

(g) Section 1505 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” the first place it appears and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “Court of Claims” the second place it appears and inserting in lieu thereof “Claims Court”.

(h) Section 1506 of title 28, United States Code, and the item relating to section 1506 in the section analysis of chapter 91 of such title, are repealed. Repeal.

(i) Section 1507 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(j)(1) The item relating to chapter 91 in the chapter analysis of part IV of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(2) The chapter heading of chapter 91 of title 28, United States Code, is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

#### REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND PATENT APPEALS

SEC. 134. Chapter 93 of title 28, United States Code, and the item relating to chapter 93 in the chapter analysis of part IV of such title, are repealed. 28 USC 1541  
et seq.

#### REPEAL; CURE OF DEFECTS

SEC. 135. Section 1584 of title 28, United States Code, and the item relating to section 1584 in the section analysis of chapter 95 of such title, are repealed.

#### REPEAL; TIME FOR APPEAL

SEC. 136. Section 2110 of title 28, United States Code, and the item relating to section 2110 in the section analysis of chapter 133 of such title, are repealed.

#### COURT OF APPEALS JURISDICTION

SEC. 137. Section 2342 of title 28, United States Code, is amended—

(1) by inserting “(other than the United States Court of Appeals for the Federal Circuit)” after “court of appeals”;

(2) in paragraph (4), by inserting “and” after the semicolon;

(3) in paragraph (5), by striking out “; and” and inserting in lieu thereof a period; and

(4) by striking out paragraph (6).

#### PLANT VARIETY PROTECTION OFFICE DECISIONS

Repeal.

**SEC. 138.** Section 2353 of title 28, United States Code, and the item relating to section 2353 in the section analysis of chapter 158 of such title, are repealed.

#### UNITED STATES CLAIMS COURT PROCEDURE

**SEC. 139.** (a) Sections 2501 and 2502(a) of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(b)(1) Section 2503 of title 28, United States Code, is amended to read as follows:

##### “§ 2503. Proceedings generally

“(a) Parties to any suit in the United States Claims Court may appear before a judge of that court in person or by attorney, produce evidence, and examine witnesses.

“(b) The proceedings of the Claims Court shall be in accordance with such rules of practice and procedure (other than the rules of evidence) as the Claims Court may prescribe and in accordance with the Federal Rules of Evidence.

“(c) The judges of the Claims Court shall fix times for trials, administer oaths or affirmations, examine witnesses, receive evidence, and enter dispositive judgments. Hearings shall, if convenient, be held in the counties where the witnesses reside.”.

(2) The item relating to section 2503 in the section analysis of chapter 165 of title 28, United States Code, is amended by striking out “before commissioners”.

(c) Section 2504 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “commissioner” each place it appears and inserting in lieu thereof “judge”.

(d) Section 2505 of title 28, United States Code, is amended—

(1) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) by striking out “report findings” and inserting in lieu thereof “enter judgment”.

(e) Section 2506 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(f) Section 2507 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) in subsection (c), by striking out “Court of Claims” and inserting in lieu thereof “Claims Court”.

(g) Section 2508 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(h)(1) Section 2509 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

Hearings.

“(a) Whenever a bill, except a bill for a pension, is referred by either House of Congress to the chief judge of the United States Claims Court pursuant to section 1492 of this title, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding officer of the panel.”

Hearing officer.

28 USC 1492.

(2) Section 2509 of title 28, United States Code, is amended—

(A) in subsections (b), (c), (d), and (f), by striking out “trial commissioner” each place it appears and inserting in lieu thereof “hearing officer”;

(B) in subsections (b), (c), and (e), by striking out “chief commissioner” each place it appears and inserting in lieu thereof “chief judge”;

(C) in subsections (b), (f), and (g), by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”;

(D) in subsection (d), by striking out “of commissioners”; and

(E) in subsection (g), by striking out “commissioners serving as trial commissioners” and inserting in lieu thereof “judges serving as hearing officers”.

(i)(1) Section 2510 of title 28, United States Code, is amended to read as follows:

**“§ 2510. Referral of cases by Comptroller General**

28 USC 2510.

“(a) The Comptroller General may transmit to the United States Claims Court for trial and adjudication any claim or matter of which the Claims Court might take jurisdiction on the voluntary action of the claimant, together with all vouchers, papers, documents, and proofs pertaining thereto.

“(b) The Claims Court shall proceed with the claims or matters so referred as in other cases pending in such Court and shall render judgment thereon.”.

(2) The item relating to section 2510 in the section analysis of chapter 165 of title 28, United States Code, is amended to read as follows:

“2510. Referral of cases by Comptroller General.”.

(j)(1) Section 2511 of title 28, United States Code, is amended by striking out “, or of the Supreme Court upon review,”.

(2) Sections 2511, 2512, 2513(c), 2514, 2515(a), and 2516(a) of title 28, United States Code, are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

(k) Section 2517 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and

(2) in subsection (b), by striking out the comma immediately after “discharged”.

(l) Section 2518 of title 28, United States Code, and the item relating to section 2518 in the section analysis of chapter 165 of such title, are repealed.

Repeal.

(m) Section 2519 of title 28, United States Code, is amended by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”.

(n)(1) Section 2520 of title 28, United States Code, is amended in subsection (a)—

- (A) by striking out “(a)”;
  - (B) by striking out “Court of Claims” and inserting in lieu thereof “United States Claims Court”; and
  - (C) by striking out “\$10” and inserting in lieu thereof “\$60”.
- (2) Subsections (b) and (c) of section 2520 of title 28, United States Code, are repealed.
- (3) The section heading of section 2520 of title 28, United States Code, is amended by striking out “; cost of printing record”.
- (4) The item relating to section 2520 in the section analysis of chapter 165 of title 28, United States Code, is amended to read as follows:

“2520. Fees.”.

(o)(1) The item relating to chapter 165 in the chapter analysis of part VI of title 28, United States Code, is amended to read as follows:

“165. United States Claims Court Procedure..... 2501”.

(2) The chapter heading of chapter 165 of title 28, United States Code, is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

(p)(1) Section 1926 of title 28, United States Code, is amended to read as follows:

#### “§ 1926. Claims Court

“(a) The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected in the United States Claims Court.

“(b) The court and its officers shall collect only such fees and costs as the Judicial Conference prescribes. The court may require advance payment of fees by rule.”.

(2) The item relating to section 1926 in the section analysis of chapter 123 of title 28, United States Code, is amended to read as follows:

“1926. Claims Court.”.

(q)(1) Chapter 165 of title 28, United States Code, is amended by adding at the end thereof the following new section:

#### “§ 2522. Notice of appeal

“Review of a decision of the United States Claims Court shall be obtained by filing a notice of appeal with the clerk of the Claims Court within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts.”.

(2) The section analysis of chapter 165 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“2522. Notice of appeal.”.

#### REPEAL OF PROVISIONS RELATING TO THE COURT OF CUSTOMS AND PATENT APPEALS

SEC. 140. Chapter 167 of title 28, United States Code, and the item relating to chapter 167 in the chapter analysis of part VI of such title, are repealed.

Fees and  
costs,  
collection.  
28 USC 1926.

28 USC 2522.

28 USC 2601  
*et seq.*

## COURT OF INTERNATIONAL TRADE; PROCEDURE

SEC. 141. Section 2645(c) of title 28, United States Code, is amended by striking out "Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title" and inserting in lieu thereof "Appeals for the Federal Circuit by filing a notice of appeal with the clerk of the Court of International Trade within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts".

## FEDERAL RULES OF EVIDENCE

SEC. 142. Rule 1101(a) of the Federal Rules of Evidence is amended by striking out "Court of Claims" the first place it appears and inserting in lieu thereof "United States Claims Court" and by striking out "and commissioners of the Court of Claims". 28 USC app.

## PART B—CONFORMING AMENDMENTS OUTSIDE TITLE 28

## FEDERAL SALARY ACT

SEC. 143. Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(C)), is amended by inserting "and the judges of the United States Claims Court" immediately before the semicolon at the end thereof.

## MERIT SYSTEMS PROTECTION BOARD

SEC. 144. Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1), by striking out "Court of Claims or a United States court of appeals as provided in chapters 91 and 158, respectively, of title 28" and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit";

(2) in subsection (c), by striking out "Court of Claims or a United States court of appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit"; and

(3) in subsection (d), by striking out "District of Columbia" and inserting in lieu thereof "Federal Circuit".

## PLANT VARIETY PROTECTION ACT

SEC. 145. The second sentence of section 71 of the Plant Variety Protection Act (7 U.S.C. 2461) is amended to read as follows: "The United States Court of Appeals for the Federal Circuit shall have jurisdiction of any such appeal."

## FEDERAL FIRE PREVENTION ACT

SEC. 146. Section 11(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2210(d)) is amended by striking out "Court of Claims of the United States" and inserting in lieu thereof "United States Claims Court".

## CRIMINAL CODE

SEC. 147. Section 204 of title 18, United States Code, and the section heading thereof are amended by striking out "Court of



Claims” and inserting in lieu thereof “United States Claims Court or the United States Court of Appeals for the Federal Circuit”.

#### TRADEMARK ACT

SEC. 148. Section 39 of the Trademark Act of 1946 (15 U.S.C. 1121) is amended by inserting “(other than the United States Court of Appeals for the Federal Circuit)” after “circuit courts of appeal of the United States”.

#### INDIAN CLAIMS COMMISSION

SEC. 149. (a) Section 29 of the Act entitled “An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes”, approved August 13, 1946 (25 U.S.C. 70v-3), is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”.

(b) Subsection (c) of section 29 of such Act is repealed.

(c) Subsection (d) of section 29 of such Act is amended—

(1) by striking out “(d)” and inserting in lieu thereof “(c)”; and

(2) by striking out “Supreme Court in accordance with the provisions of section 1255” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit in accordance with the provisions of section 1295”.

(d) Subsection (e) of section 29 of such Act is amended by striking out “(e)” and inserting in lieu thereof “(d)”.

*Ante*, p. 37.

#### CLAIMS BY INDIANS OF CALIFORNIA

SEC. 150. Section 2 of the Act of May 18, 1928 (25 U.S.C. 652) is amended—

(1) by striking out “Court of Claims” the first place it appears and inserting in lieu thereof “United States Claims Court”;

(2) by striking out “Court of Claims of the United States” and inserting in lieu thereof “United States Claims Court”; and

(3) by striking out “Supreme Court of the United States” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit”.

#### INTERNAL REVENUE CODE

SEC. 151. Section 7422(e) of the Internal Revenue Code of 1954 (26 U.S.C. 7422(e)) is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”.

#### INTERNAL REVENUE CODE

SEC. 152. Section 7428 of the Internal Revenue Code of 1954 is amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “Claims Court”.

26 USC 7428.

## INTERNAL REVENUE CODE

SEC. 153. (a) The second sentence of section 7456(c) of the Internal Revenue Code of 1954 is amended to read as follows: "Each commissioner shall receive pay at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of title 28, United States Code, and also necessary traveling expenses and per diem allowances, as provided in subchapter I of chapter 57 of title 5, United States Code, while traveling on official business and away from Washington, District of Columbia." 26 USC 7456.  
5 USC 5701.

(b) Notwithstanding the amendment made by subsection (a), until such time as a change in the salary rate of a commissioner of the United States Tax Court occurs in accordance with section 7456(c) of the Internal Revenue Code of 1954, the salary of such commissioner shall be equal to the salary of a commissioner of the Court of Claims immediately prior to the effective date of this Act. 26 USC 7456 note.

## INTERNAL REVENUE CODE

SEC. 154. Section 7482(a) of the Internal Revenue Code of 1954 is amended by inserting "(other than the United States Court of Appeals for the Federal Circuit)" after "United States Court of Appeals". 26 USC 7482.

## APPROPRIATION FOR JUDGMENTS AGAINST UNITED STATES

SEC. 155. Section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), is amended by striking out "Court of Claims" and inserting in lieu thereof "Court of Appeals for the Federal Circuit or the United States Claims Court".

## CONTRACT DISPUTES

SEC. 156. Section 8(g)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)(1)) is amended—

(1) in subparagraph (A), by striking out "Court of Claims" and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit"; and

(2) in subparagraph (B), by striking out "United States Court of Claims for judicial review, under section 2510 of title 28, United States Code, as amended herein," and inserting in lieu thereof "Court of Appeals for the Federal Circuit for judicial review under section 1295 of title 28, United States Code,". Ante, p. 37.

## CONTRACT DISPUTES

SEC. 157. Section 10(c) of the Contract Disputes Act of 1978 (41 U.S.C. 609(c)) is amended by striking out ", or, in its discretion" and all that follows through "of the case".

## CONGRESSIONAL PRINTING

SEC. 158. Section 713 of title 44, United States Code, is amended—

(1) by striking out "eight hundred and twenty-two" and inserting in lieu thereof "eight hundred and twenty";

- (2) by inserting “and” after “Superintendent of Documents;”;
- and
- (3) by striking out “to the Court of Claims, two copies; and”.

## EXECUTIVE AND JUDICIARY PRINTING

SEC. 159. Section 1103 of title 44, United States Code, is amended by striking out “the Court of Claims,” and by striking out “chief judge of the Court of Claims,”.

## CONFORMING AMENDMENTS

SEC. 160. (a) The following provisions of law are amended by striking out “Court of Claims” each place it appears and inserting in lieu thereof “United States Claims Court”:

25 USC 1401,  
1402.

(1) Sections 1 and 2 of the Act of October 19, 1973 (87 Stat. 466).

(2) Section 8715 of title 5, United States Code.

(3) Section 8912 of title 5, United States Code.

(4) Section 2273(b) of title 10, United States Code.

(5) Section 337(i) of the Tariff Act of 1930 (19 U.S.C. 1337(i)).

(6) Section 606(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2356(a)).

(7) Section 1 of the Act entitled “An Act providing for the allotment and distribution of Indian tribal funds”, approved March 2, 1907 (25 U.S.C. 119).

26 USC 6110.

(8) Section 2 of the Act of August 12, 1935 (25 U.S.C. 475a).

(9) Section 6110(i)(1) of the Internal Revenue Code of 1954.

(10) Section 2 of the Act of May 28, 1908 (30 U.S.C. 193a).

(11) Section 7 of the Act of July 31, 1894 (31 U.S.C. 72).

(12) Section 183 of title 35, United States Code.

(13) Section 104(c) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 330(c)).

(14) Sections 13(b)(2) and 14 of the Contract Settlement Act of 1944 (41 U.S.C. 113(b) and 114).

(15) Sections 8(d) and 10(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d) and 609(d)).

(16) Sections 171 and 173 of the Atomic Energy Act of 1954 (42 U.S.C. 2221 and 2223).

(17) Section 10(i) of the Trading with the Enemy Act (50 U.S.C. App. 10(i)).

(18) Sections 103(f), 103(i), 105, 106(a)(6), 108, 108A, and 114(5) of the Renegotiation Act of 1951 (50 U.S.C. App. 1213(f), 1213(i), 1215, 1216(a)(6), 1218, 1218a, and 1224(5)).

(19) Section 4 of the Act of July 2, 1948 (50 U.S.C. App. 1984).

(b) The section heading of section 108A of the Renegotiation Act of 1951 (50 U.S.C. App. 1218a) is amended by striking out “COURT OF CLAIMS” and inserting in lieu thereof “UNITED STATES CLAIMS COURT”.

(c) Section 108A of the Renegotiation Act of 1951 (50 U.S.C. App. 1218a) is amended by striking out “Supreme Court upon certiorari in the manner provided in section 1255” and inserting in lieu thereof “United States Court of Appeals for the Federal Circuit in accordance with the provisions of section 1295”.

## CONFORMING AMENDMENTS

SEC. 161. The following provisions of law are amended by striking out "Court of Claims" each place it appears and inserting in lieu thereof "Claims Court":

- (1) Section 4(c) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(c)).
- (2) Section 20 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831s).
- (3) Section 403 of the International Claims Settlement Act of 1949 (22 U.S.C. 1642b).
- (4) Section 2(a) of the Act of May 15, 1978 (92 Stat. 244).
- (5) Section 311(i) of the Federal Water Pollution Control Act (33 U.S.C. 1321(i)).
- (6) Section 10(b) of the Intervention on the High Seas Act (33 U.S.C. 1479(b)).
- (7) Section 282 of title 35, United States Code.
- (8) Section 5261 of the Revised Statutes (45 U.S.C. 87).
- (9) Section 41(a) of the Trading with the Enemy Act (50 U.S.C. App. 42(a)).
- (10) Section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)).

## CONFORMING AMENDMENTS

SEC. 162. The following provisions of law are amended by striking out "United States Court of Customs and Patent Appeals" and "Court of Customs and Patent Appeals" each place they appear and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit":

- (1) Section 21 of the Trademark Act of 1946 (15 U.S.C. 1071).
- (2) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).
- (3) Section 305(d) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(d)).

## CONFORMING AMENDMENTS

SEC. 163. (a) The following provisions of law are amended by striking out "Court of Customs and Patent Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Federal Circuit":

- (1) Subsections (d) and (f) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516 (d) and (f)).
- (2) Section 516A (c) and (e) of the Tariff Act of 1930 (19 U.S.C. 1516a (c) and (e)).
- (3) Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528).
- (4) Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)).
- (5) Section 284(c) of the Trade Act of 1974 (19 U.S.C. 2395(c)).
- (6) Section 308(9) of the Ethics in Government Act (28 U.S.C. App.).
- (7) Sections 141 through 146 of title 35, United States Code.

(b)(1) The item relating to section 141 in the section analysis of chapter 13 of title 35, United States Code, is amended by striking out "Court of Customs and Patent Appeals" and inserting in lieu thereof "Court of Appeals for the Federal Circuit".

35 USC 141  
et seq.

(2) The section heading of section 141 of title 35, United States Code, is amended by striking out “Court of Customs and Patent Appeals” and inserting in lieu thereof “Court of Appeals for the Federal Circuit”.

#### CONFORMING AMENDMENTS

SEC. 164. The following provisions of law are amended by striking out “the United States Court of Claims, the United States Court of Customs and Patent Appeals” each place it appears and inserting in lieu thereof “the United States Claims Court”:

- (1) Section 6001(4) of title 18, United States Code.
- (2) Section 906 of title 44, United States Code.

#### PART C—MISCELLANEOUS PROVISIONS

##### CONTINUED SERVICE OF CURRENT JUDGES

28 USC 44 note.

SEC. 165. The judges of the United States Court of Claims and of the United States Court of Customs and Patent Appeals in regular active service on the effective date of this Act shall continue in office as judges of the United States Court of Appeals for the Federal Circuit. Senior judges of the United States Court of Claims and of the United States Court of Customs and Patent Appeals on the effective date of this Act shall continue in office as senior judges of the United States Court of Appeals for the Federal Circuit.

##### APPOINTMENT OF CHIEF JUDGE OF COURT OF APPEALS FOR THE FEDERAL CIRCUIT

28 USC 45 note.  
*Post*, p. 51.

SEC. 166. Notwithstanding the provisions of section 45(a) of title 28, United States Code, the first chief judge of the United States Court of Appeals for the Federal Circuit shall be the Chief Judge of the United States Court of Claims or the Chief Judge of the United States Court of Customs and Patent Appeals, whoever has served longer as chief judge of his court. Notwithstanding section 45 of title 28, United States Code, whichever of the two chief judges does not become the first chief judge of the United States Court of Appeals for the Federal Circuit under the preceding sentence shall, while in active service, have precedence and be deemed senior in commission over all the circuit judges of the United States Court of Appeals for the Federal Circuit (other than the first chief judge of that circuit). When the person who first serves as chief judge of the United States Court of Appeals for the Federal Circuit vacates that position, the position shall be filled in accordance with section 45(a) of title 28, United States Code, as modified by the preceding sentence of this section.

##### COURT OF CLAIMS COMMISSIONERS

Judge,  
U.S. Claims  
Court.

28 USC 171 note.

SEC. 167. (a) Notwithstanding the provisions of section 171(a) of title 28, United States Code, as amended by this Act, a commissioner of the United States Court of Claims serving immediately prior to the effective date of this Act shall become a judge of the United States Claims Court on the effective date of this Act.

Term of  
office.

(b) Notwithstanding the provisions of section 172(a) of title 28, United States Code, as amended by this Act, the initial term of office of a person who becomes a judge of the United States Claims

Court under subsection (a) of this section shall expire fifteen years after the date of his or her employment with the United States Court of Claims, or on October 1, 1986, whichever occurs earlier. Any such judge shall continue in office until a successor is sworn or until reappointed. No such individual shall serve as a judge after reaching the age of seventy years.

Salary.

(c) Notwithstanding the provisions of section 172(b) of title 28, United States Code, as amended by this Act, until such time as a change in the salary rate of a judge of the United States Claims Court occurs in accordance with such section 172(b), the salary of such judge shall be equal to the salary of a Commissioner of the Court of Claims.

#### APPOINTMENT OF JUDGES BY THE PRESIDENT

##### SEC. 168. The Congress—

28 USC 44 note.

(1) takes notice of the fact that the quality of the Federal judiciary is determined by the competence and experience of its judges; and

(2) suggests that the President, in nominating individuals to judgeships on the United States Court of Appeals for the Federal Circuit and the United States Claims Court, select from a broad range of qualified individuals.

#### TENNESSEE VALLEY AUTHORITY LEGAL REPRESENTATION

SEC. 169. Nothing in this Act affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 to represent itself by attorneys of its choosing.

28 USC 171 note.

16 USC 831.

### TITLE II—GOVERNANCE AND ADMINISTRATION OF THE FEDERAL COURTS

#### PART A—CHIEF JUDGE TENURE

##### APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE COURTS OF APPEALS

SEC. 201. (a) Section 45 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a)(1) The chief judge of the circuit shall be the circuit judge in regular active service who is senior in commission of those judges who—

“(A) are sixty-four years of age or under;

“(B) have served for one year or more as a circuit judge; and

“(C) have not served previously as chief judge.

“(2)(A) In any case in which no circuit judge meets the qualifications of paragraph (1), the youngest circuit judge in regular active service who is sixty-five years of age or over and who has served as circuit judge for one year or more shall act as the chief judge.

“(B) In any case under subparagraph (A) in which there is no circuit judge in regular active service who has served as a circuit judge for one year or more, the circuit judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

“(3)(A) Except as provided in subparagraph (C), the chief judge of the circuit appointed under paragraph (1) shall serve for a term of

seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the circuit.

“(B) Except as provided in subparagraph (C), a circuit judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

“(C) No circuit judge may serve or act as chief judge of the circuit after attaining the age of seventy years unless no other circuit judge is qualified to serve as chief judge of the circuit under paragraph (1) or is qualified to act as chief judge under paragraph (2).”.

(b) Section 45 of title 28, United States Code, is amended by amending subsection (c) to read as follows:

“(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the chief judge of the circuit shall be such other circuit judge who is qualified to serve or act as chief judge under subsection (a).”.

#### APPOINTMENT AND TERMS OF CHIEF JUDGES OF THE DISTRICT COURTS

SEC. 202. (a) Section 136 of title 28, United States Code, is amended by amending subsection (a) to read as follows:

“(a)(1) In any district having more than one district judge, the chief judge of the district shall be the district judge in regular active service who is senior in commission of those judges who—

“(A) are sixty-four years of age or under;

“(B) have served for one year or more as a district judge; and

“(C) have not served previously as chief judge.

“(2)(A) In any case in which no district judge meets the qualifications of paragraph (1), the youngest district judge in regular active service who is sixty-five years of age or over and who has served as district judge for one year or more shall act as the chief judge.

“(B) In any case under subparagraph (A) in which there is no district judge in regular active service who has served as a district judge for one year or more, the district judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

“(3)(A) Except as provided in subparagraph (C), the chief judge of the district appointed under paragraph (1) shall serve for a term of seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the district.

“(B) Except as provided in subparagraph (C), a district judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

“(C) No district judge may serve or act as chief judge of the district after attaining the age of seventy years unless no other district judge is qualified to serve as chief judge of the district under paragraph (1) or is qualified to act as chief judge under paragraph (2).”.

(b) Section 136 of title 28, United States Code, is amended by amending subsection (d) to read as follows:

“(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as district judge, he may so certify to the Chief Justice of the United States, and thereafter, the

chief judge of the district shall be such other district judge who is qualified to serve or act as chief judge under subsection (a).”.

#### EFFECTIVE DATE; APPLICABILITY

SEC. 203. (a) The amendments to section 45 of title 28, United States Code, and to section 136 of such title, made by sections 201 and 202 of this Act, shall not apply to or affect any person serving as chief judge on the effective date of this Act. 28 USC 45 note.

(b) The provisions of section 45(a) of title 28, United States Code, as in effect on the day before the effective date of this Act, shall apply to the chief judge of a circuit serving on such effective date. Ante, p. 51.  
The provisions of section 136(a) of title 28, United States Code, as in effect on the day before the effective date of this part, shall apply to the chief judge of a district court serving on such effective date. Ante, p. 52.

#### PART B—PRECEDENCE AND COMPOSITION OF PANEL

##### PRECEDENCE ON PANEL

SEC. 204. Section 45(b) of title 28, United States Code, is amended by inserting “of the court in regular active service” immediately after “circuit judges” in the second sentence.

##### COMPOSITION OF PANEL; REQUIREMENTS AND SIZE

SEC. 205. Section 46(c) of title 28, United States Code, is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “, or such number of judges as may be prescribed in accordance with section 6 of Public Law 95-486 (92 Stat. 1633), except that any senior circuit judge of the circuit shall be eligible to participate, at his election and upon designation and assignment pursuant to section 294(c) of this title and the rules of the circuit, as a member of an in banc court reviewing a decision of a panel of which such judge was a member.”.

#### PART C—JUDICIAL COUNCILS OF THE CIRCUITS

##### TECHNICAL AND CONFORMING AMENDMENTS

SEC. 206. (a) Section 3006A(h)(2)(A) of title 18, United States Code, is amended—

(1) by striking out “judicial council” each place it appears and inserting in lieu thereof “court of appeals”; and

(2) by striking out “Judicial Council of the Circuit” and inserting in lieu thereof “court of appeals of the circuit”.

(b) Section 3006A(i) of title 18, United States Code, is amended by striking “judicial council” and inserting in lieu thereof “court of appeals”.

(c) The amendment made by subsection (a) of this section shall not affect the terms of existing appointments. 18 USC 3006A note.



## PART D—JUDICIAL RESIGNATION; PENSIONS

## PENSIONS OF JUDGES WHO RESIGN TO ACCEPT EXECUTIVE POSITIONS

SEC. 207. (a) Section 8332(b) of title 5, United States Code, is amended by striking out “and” at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof “; and”, and by inserting at the end thereof the following new paragraph:

“(12) service as a justice or judge of the United States, as defined by section 451 of title 28, and service as a judge of a court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, but no credit shall be allowed for such service if the employee is entitled to a salary or an annuity under section 371, 372, or 373 of title 28.”.

(b) Section 8334 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

“(i)(1) The Director of the Administrative Office of the United States Courts shall pay to the Fund the amount which an employee may deposit under subsection (c) of this section for service creditable under section 8332(b)(12) of this title if such creditable service immediately precedes service as an employee subject to this subchapter with a break in service of no more than ninety working days. The Director shall pay such amount from any appropriation available to him as a necessary expense of the appropriation concerned.

“(2) The amount the Director pays in accordance with paragraph (1) of this subsection shall be reduced by the amount of any refund to the employee under section 376 of title 28. Except to the extent of such reduction, the amount the Director pays to the Fund shall satisfy the deposit requirement of subsection (c) of this section.

“(3) Notwithstanding any other provision of law, the amount the Director pays under this subsection shall constitute an employer contribution to the Fund, excludable under section 402 of the Internal Revenue Code of 1954 from the employee’s gross income until such time as the contribution is distributed or made available to the employee, and shall not be subject to refund or to lump-sum payment to the employee.”.

26 USC 402.

## PART E—RULES OF PRACTICE

## PUBLICATION OF RULES

SEC. 208. (a) Chapter 131 of title 28, the United States Code, is amended by adding at the end thereof the following new section:

28 USC 2077.

## “§ 2077. Publication of rules; advisory committees

“(a) The rules for the conduct of the business of each court of appeals, including the operating procedures of such court, shall be published. Each court of appeals shall print or cause to be printed necessary copies of the rules. The Judicial Conference shall prescribe the fees for sales of copies under section 1913 of this title, but the Judicial Conference may provide for free distribution of copies to members of the bar of each court and to other interested persons.

“(b) Each court of appeals shall appoint an advisory committee for the study of the rules of practice and internal operating procedures of the court of appeals. The advisory committee shall make recommendations to the court concerning such rules and procedures. Members of the committee shall serve without compensation, but the Director may pay travel and transportation expenses in accordance with section 5703 of title 5.”.

(b) The section analysis of chapter 131 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“2077. Publication of rules; advisory committees.”.

### **TITLE III—JURISDICTION AND PROCEDURE**

#### **PART A—TRANSFER OF CASES**

##### **TRANSFER TO CURE WANT OF JURISDICTION**

SEC. 301. (a) Title 28, United States Code, is amended by adding the following new chapter after chapter 97:

#### **“CHAPTER 99.—GENERAL PROVISIONS**

“Sec.

“1631. Transfer to cure want of jurisdiction.

##### **“§ 1631. Transfer to cure want of jurisdiction**

28 USC 1631.

“Whenever a civil action is filed in a court as defined in section 610 of this title or an appeal, including a petition for review of administrative action, is noticed for or filed with such a court and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed, and the action or appeal shall proceed as if it had been filed in or noticed for the court to which it is transferred on the date upon which it was actually filed in or noticed for the court from which it is transferred.”.

(b) The chapter analysis of part IV of title 28, United States Code, is amended by adding at the end thereof the following:

“99. General Provisions..... 1631”.

#### **PART B—INTEREST**

##### **INTEREST ON JUDGMENTS**

SEC. 302. (a) Section 1961 of title 28, United States Code, is amended—

(1) by inserting “(a)” immediately before “Interest shall” in the first sentence;

(2) by striking out “at the rate allowed by State law” in the last sentence and inserting in lieu thereof the following: “at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United

States Courts shall distribute notice of that rate and any changes in it to all Federal judges"; and

(3) by adding at the end thereof the following new subsections:

"(b) Interest shall be computed daily to the date of payment except as provided in section 2516(b) of title 28, United States Code, and section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), and shall be compounded annually.

26 USC 6621.

"(c)(1) This section shall not apply in any judgment of any court with respect to any internal revenue tax case. Interest shall be allowed in such cases at a rate established under section 6621 of the Internal Revenue Code of 1954.

"(2) Except as otherwise provided in paragraph (1) of this subsection, interest shall be allowed on all final judgments against the United States in the United States Court of Appeals for the Federal circuit, at the rate provided in subsection (a) and as provided in subsection (b).

"(3) Interest shall be allowed, computed, and paid on judgments of the United States Claims Court only as provided in paragraph (1) of this subsection or in any other provision of law.

"(4) This section shall not be construed to affect the interest on any judgment of any court not specified in this section."

(b) Section 2411 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "(a)"; and

(2) by repealing subsection (b).

(c) Section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), is amended by striking out "to which the provisions of section 2411(b) of Title 28 apply".

(d) Section 2516(b) of title 28, United States Code, is amended by striking out "at the rate of four percent per annum" and all that follows through "affirmance" and inserting in lieu thereof "from the date of the filing of the transcript of the judgment in the General Accounting Office to the date of the mandate of the affirmance, at a rate of interest equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of the judgment".

#### TITLE IV—MISCELLANEOUS PROVISIONS

##### DISTRICT COURT REPORTERS

SEC. 401. (a) Section 753(b) of title 28, United States Code, shall be amended to read as follows:

Recording  
methods.

"(b) Each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge. The regulations promulgated pursuant to the preceding sentence shall prescribe the types of electronic sound recording or other means which may be used. Proceedings to be recorded under this section include (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceed-

ings as a judge of the court may direct or as may be required by rule or order of court as may be requested by any party to the proceeding.

"The reporter or other individual designated to produce the record shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

Record  
preservation.

"The reporter or other individual designated to produce the record shall transcribe and certify such parts of the record of proceedings as may be required by any rule or order of court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified by him and filed with the clerk as provided in this subsection. He shall also transcribe and certify such other parts of the record of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter or other individual designated to produce the record shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

Transcripts.

"The reporter or other designated individual shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

"The transcript in any case certified by the reporter or other individual designated to produce the record shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record.

"The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge."

Records,  
inspection  
availability.

(b) The regulations promulgated by the Judicial Conference pursuant to subsection (b) of section 753 of title 28, as amended by subsection (a) of this section, shall not take effect before one year after the effective date of this Act. During the one-year period after the date of the enactment of this Act, the Judicial Conference shall experiment with the different methods of recording court proceedings. Prior to the effective date of such regulations, the law and regulations in effect the day before the date of enactment of this Act shall remain in full force and effect.

Regulations,  
effective date.  
28 USC 753 note.

#### EFFECTIVE DATE

SEC. 402. Unless otherwise specified, the provisions of this Act shall take effect on October 1, 1982.

28 USC 171 note.

#### EFFECT ON PENDING CASES

SEC. 403. (a) Any case pending before the Court of Claims on the effective date of this Act in which a report on the merits has been filed by a commissioner, or in which there is pending a request for

28 USC 171 note.

review, and upon which the court has not acted, shall be transferred to the United States Court of Appeals for the Federal Circuit.

(b) Any matter pending before the United States Court of Customs and Patent Appeals on the effective date of this Act shall be transferred to the United States Court of Appeals for the Federal Circuit.

(c) Any petition for rehearing, reconsideration, alteration, modification, or other change in any decision of the United States Court of Claims or the United States Court of Customs and Patent Appeals rendered prior to the effective date of this Act that has not been determined by either of those courts on that date, or that is filed after that date, shall be determined by the United States Court of Appeals for the Federal Circuit.

(d) Any matter pending before a commissioner of the United States Court of Claims on the effective date of this Act, or any pending dispositive motion that the United States Court of Claims has not determined on that date, shall be determined by the United States Claims Court.

(e) Any case in which a notice of appeal has been filed in a district court of the United States prior to the effective date of this Act shall be decided by the court of appeals to which the appeal was taken.

Approved April 2, 1982.

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**LEGISLATIVE HISTORY—H.R. 4482 (S. 1700):**

HOUSE REPORT No. 97-312 (Comm. on the Judiciary).

SENATE REPORT No. 97-275 accompanying S. 1700 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Nov. 17, 18, considered and passed House.

Dec. 8, S. 1700 considered and passed Senate; proceedings vacated and H.R. 4482, amended, passed in lieu.

Vol. 128 (1982): Mar. 9, House concurred in Senate amendment, with an amendment.

Mar. 22, Senate concurred in House amendment.

Public Law 97-165  
97th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 4 through 10, 1982, "National Medic Alert Week".

Apr. 3, 1982  
[H.J. Res. 272]

Whereas approximately forty million Americans, nearly one-fifth of our Nation's population, are afflicted with diabetes, heart conditions, epilepsy, allergies, or other medical problems the symptoms of which, in emergency situations, are difficult to detect or are not readily associated with such medical problems; and

Whereas many such Americans suffer avoidable injury or death each year because of the delay which is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations; and

Whereas special emergency identification and information services are available which are designed with the needs of victims of such hidden medical conditions specifically in mind; and

Whereas these emergency identification and information systems have been credited with saving the lives of more than two thousand people afflicted by hidden medical conditions each year: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 4 through 10, 1982, "National Medic Alert Week", and calling upon the people of the United States and upon interested associations and organizations to observe such week with appropriate ceremonies and activities.*

National Medic  
Alert Week.

Approved April 3, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 272:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Mar. 11, considered and passed House.  
Mar. 30, considered and passed Senate.

Public Law 97-166  
97th Congress

Joint Resolution

Apr. 3, 1982  
[H.J. Res. 447]

To authorize and request the President to issue a proclamation designating April 4, 1982, as the "National Day of Reflection".

Whereas the Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles which, from the dawn of civilization when they were known as the Seven Noahide Laws, have been the bedrock of society without which the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is presently profoundly concerned with the weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society; and

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility of transmitting these historical ethical values from our distinguished past to the generations of the future, and need occasional reminder of this duty and privilege: Now, therefore, be it

National Day  
of Reflection.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized to issue a proclamation designating April 4, 1982, which this year coincides with the eightieth birthday of Rabbi Menachem Mendel Schneerson, universally respected and revered leader and head of the worldwide Lubavitch movement, who has done so much to foster and promote these ethical values and principles, as the "National Day of Reflection".

Approved April 3, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 447:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Mar. 30, considered and passed House.  
Mar. 31, considered and passed Senate.

Public Law 97-167  
97th Congress

Joint Resolution

Providing for the designation of April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day".

Apr. 6, 1982  
[H.J. Res. 435]

Whereas April 9, 1982, is the fortieth anniversary of the fall of Bataan and Corregidor in the Philippines to the Japanese Imperial Army during World War II;

Whereas approximately thirty-six thousand Americans were captured by the Japanese at the fall;

Whereas these Americans, along with Filipinos captured by the Japanese, were forced to march without food and water for up to ten days on the Bataan Death March to Camp O'Donnell, a prisoner of war camp;

Whereas the International War Crimes Commission reports that ten thousand three hundred people, including women and children, died on that march;

Whereas the survivors of that march, along with other Americans and Filipinos captured by the Japanese in the Philippines, were taken to a prisoner of war camp in central Luzon named Cabanatuan;

Whereas the treatment of prisoners of war at Cabanatuan was extraordinarily cruel and inhumane and resulted in the death of over three thousand American prisoners of war during the period beginning May 1942 and ending February 1945;

Whereas the prisoners of war at Cabanatuan were liberated on September 2, 1945;

Whereas of the thirty-six thousand Americans who were captured at the fall of Bataan and Corregidor, only between six thousand to seven thousand survived until such date of liberation; and

Whereas approximately three thousand fifteen Americans who survived the Bataan Death March and imprisonment at Cabanatuan are living today: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Presi-*

American Salute  
to Cabanatuan  
Prisoner of War  
Memorial Day.



**dent is directed to issue a proclamation designating April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day" and calling on the people of the United States to observe such day with appropriate ceremonies and activities.**

Approved April 6, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 435:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 1, considered and passed House and Senate.

Public Law 97-168  
97th Congress

## An Act

To authorize the exchange of certain lands in Idaho and Wyoming.

Apr. 6, 1982

[S. 634]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby authorized to exchange the parcel of land and improvements described in section 2 (parcel A) currently owned by the United States, for the parcel of land described in section 3 (parcel B) and any improvements thereon, currently owned by Richard Hendricks of Preston, Idaho. Such exchange shall be made without additional consideration and in lieu of receiving monetary payment.

Idaho and  
Wyoming.  
Land exchange.

SEC. 2. For the purposes of this Act, parcel A shall consist of the following described tract of land consisting of approximately 81.78 acres: Township 33 north, range 119 west, 6th principal meridian, Lincoln County, Wyoming, section 14, southeast quarter northwest quarter and southwest quarter northeast quarter, containing approximately 80 acres, and township 35 north, range 119 west, 6th principal meridian, Lincoln County, Wyoming, section 28, beginning at the southwest corner of lot 2, thence north 15 rods, thence east 19 rods, thence south 15 rods, thence west 19 rods to the point of beginning.

SEC. 3. For the purpose of this Act, parcel B shall consist of the following described tract of land, consisting of approximately 5.9 acres: That portion of the southeast quarter southwest quarter of section 8, township 9 south, range 42 east, Boise meridian, Caribou County, Idaho, beginning at the southeast corner of the southeast quarter southwest quarter of section 8, thence west 306 feet, more or less, to an intersection with the easterly right-of-way of the Oregon Shortline Railroad, said point being 100 feet easterly measured at right angles from the centerline of the main track of said railroad; thence north 7 degrees 10 minutes east, being parallel to and 100 feet easterly from said centerline of main track, 131 feet to a point of spiral; thence northerly along a curve to the left, the said centerline of main track has a spiral angle of 3 degrees 30 minutes with 6x38 foot chords, a distance of 232 feet to a point of spiral curve; thence along a curve to the left with a radius of 2,010.1 feet a distance of 520 feet; thence south 87 degrees 22 minutes east a distance of 269 feet, thence north 428 feet, more or less; thence east 30 feet; thence south along the east line of said southeast quarter southwest quarter 1,320 feet, more or less, to the point of beginning.

SEC. 4. Upon the conveyance of parcel B and any improvements thereon from Richard Hendricks by warranty deed to the United States acting through the Secretary, the Secretary is authorized and directed to convey by quitclaim deed, all right, title, and interest of the United States in parcel A to Richard Hendricks: *Provided*, That the conveyance of parcel A shall be subject to valid

existing rights of third parties and a reservation by the United States of all mineral interests and of the existing road right of way in land section 14: *And provided further*, That the conveyance of parcel B to the United States may be subject to a reservation of all mineral interests therein to Richard Hendricks.

Administration.

SEC. 5. The lands acquired by the Secretary by this Act shall, upon acquisition, become part of the Caribou National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

Approved April 6, 1982.

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**LEGISLATIVE HISTORY—S. 634:**

HOUSE REPORT No. 97-439 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-182 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Sept. 22, considered and passed Senate.

Vol. 128 (1982): Mar. 16, considered and passed House, amended.

Mar. 25, Senate concurred in House amendments.

Public Law 97-169  
97th Congress

Joint Resolution

To authorize and request the President to designate the month of April 1982 as  
“Parliamentary Emphasis Month”.

Apr. 6, 1982  
[S.J. Res. 102]

Whereas the use of parliamentary procedure in the meetings of private and public organizations in this country promotes orderly deliberation and protects both individual rights and majority rule, cardinal principles of governance in the United States; and Whereas April is the birth month of Thomas Jefferson, author of the first comprehensive manual on parliamentary practice in this country: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to designate the month of April 1982, as “Parliamentary Emphasis Month”, to call upon Federal, State and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities, and to urge them to promote democratic processes and efficient organization of meetings through parliamentary practice.

Parliamentary  
Emphasis  
Month.

Approved April 6, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 102:

CONGRESSIONAL RECORD:

Vol. 127 (1981): July 29, considered and passed Senate.  
Vol. 128 (1982): Apr. 1, considered and passed House.

Public Law 97-170  
97th Congress

## Joint Resolution

Apr. 12, 1982

[H.J. Res. 410]

To designate April 19, 1982, as "Dutch-American Friendship Day".

Whereas on April 19, 1782, in The Hague, the Netherlands, Prince William V of Orange and the States-General officially recognized the ambassadorial credentials of John Adams, thereby establishing formal diplomatic relations between the new government of the United States and the Netherlands;

Whereas the diplomatic relationship between the United States and the Netherlands is the longest such relationship between the United States and any foreign country;

Whereas the historical relationship between the American and Dutch peoples began approximately four hundred years ago, when the Pilgrims resided in the Netherlands for ten years before sailing to the New World;

Whereas Americans of Dutch descent, including Presidents Martin Van Buren, Theodore Roosevelt, and Franklin Delano Roosevelt, have made significant contributions to the United States; and

Whereas the bond of friendship between the American and Dutch peoples serves as a model for the good relations that should exist among all peoples of the world: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That April 19, 1982, hereby is designated "Dutch-American Friendship Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 12, 1982.

Dutch-American  
Friendship Day.

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LEGISLATIVE HISTORY—H.J. Res. 410:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 30, considered and passed House.

Mar. 31, considered and passed Senate.

Public Law 97-171  
97th Congress

An Act

To amend section 209 of title 18, United States Code, to permit an officer or employee of the United States Government, injured during an assassination attempt, to receive contributions from charitable organizations.

Apr. 13, 1982  
[S. 2333]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 209 of title 18, United States Code, is amended by adding a new subsection as follows:

U.S.  
Government  
officer or  
employee  
injured during  
an assassination  
attempt,  
contributions.

“(f) This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 351 or 1751 of this title, of contributions or payments from an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1954 and which is exempt from taxation under section 501(a) of such Code.”.

26 USC 501.

Approved April 13, 1982.

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LEGISLATIVE HISTORY—S. 2333:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 1, considered and passed Senate and House.

Public Law 97-172  
97th Congress

Joint Resolution

Apr. 16, 1982  
[S.J. Res. 67]

To establish National Nurse-Midwifery Week.

Whereas the health and safety of childbearing families is of paramount importance in our society;

Whereas nurse-midwives have practiced in this country since coming to the mountains of eastern Kentucky in 1925;

Whereas the Federal Government has a long history of support for the nurse-midwifery practice and education;

Whereas certified nurse-midwives have demonstrated their ability to give high-quality care to normal mothers and babies throughout the maternity cycle, and their emphasis on health teaching and high-quality care for well mothers and babies makes them a valuable part of the health care team and makes their services increasingly in demand by the public;

Whereas nurse-midwifery care has a proven record in reducing infant morbidity and mortality;

Whereas nurse-midwifery care has been demonstrated to be cost effective for families and for the Nation;

Whereas childbearing families have found nurse-midwives responsive to their wishes for more participatory maternity care; and

Whereas the Congress has already recognized the autonomous practice of certified nurse-midwives under both medicaid and the Department of Defense civilian health and medical program of the uniformed services (CHAMPUS): Now, therefore, be it

National Nurse-  
Midwifery Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Congress declares April 19 to 26, 1982, as National Nurse-Midwifery Week, and Congress recognizes the unique contribution that nurse-midwives have made to mothers and babies in the United States during the past half century.

Approved April 16, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 67:

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 25, considered and passed Senate.

Vol. 128 (1982): Apr. 1, considered and passed House.

Public Law 97-173  
97th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 25 through May 2, 1982, as "Jewish Heritage Week".

Apr. 28, 1982  
[H.J. Res. 448]

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the months of April and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating April 25 through May 2, 1982, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Jewish Heritage  
Week.

Approved April 28, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 448:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Apr. 22, considered and passed House and Senate.



Public Law 97-174  
97th Congress

An Act

May 4, 1982

[S. 266]

To amend title 38, United States Code, to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense and to direct the Secretary of Defense and the Administrator of Veterans' Affairs to plan for the provision of health care by the Veterans' Administration during periods of war or national emergency to members of the Armed Forces on active duty; and for other purposes.

Veterans'  
Administration  
and Department  
of Defense  
Health  
Resources  
Sharing and  
Emergency  
Operations Act.  
38 USC 101 note.  
38 USC 5011  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act".

SEC. 2. (a) The Congress makes the following findings:

(1) There are opportunities for greater sharing of the health-care resources of the Veterans' Administration and the Department of Defense which would, if achieved, be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and underuse of health-care resources.

(2) Present incentives to encourage such sharing of health-care resources are inadequate.

(3) Such sharing of health-care resources can be achieved without a detrimental effect on the primary health-care beneficiaries of the Veterans' Administration and the Department of Defense.

(b) The Congress makes the following further findings:

(1) During and immediately after a period of war or national emergency involving the use of the Armed Forces of the United States in armed conflict, the Department of Defense might not have adequate health-care resources to care for military personnel wounded in combat and other active-duty military personnel.

(2) The Veterans' Administration has an extensive, comprehensive health-care system that could be used to assist the Department of Defense in caring for such personnel in such a situation.

SEC. 3. (a) Section 5011 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "The Administrator" the first place it appears;

(2) by striking out "and material" and all that follows through "this title," and inserting in lieu thereof "material, and other resources as may be needed to operate such facilities properly, except that the Administrator may not enter into an agreement that would result (1) in a permanent reduction in the total number of authorized Veterans' Administration hospital beds and nursing home beds to a level below the minimum number of such beds required by section 5010(a)(1) of this title to be authorized, or (2) in a permanent reduction in the total number of such beds operated and maintained to a level

38 USC 5011A  
note.

38 USC 5010.

below the minimum number of such beds required by such section to be operated and maintained"; and

(3) by adding at the end the following new subsections:

"(b)(1) In order to promote the sharing of health-care resources between the Veterans' Administration and the Department of Defense (hereinafter in this section referred to as the 'agencies'), there is established an interagency committee to be known as the Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee (hereinafter in this subsection referred to as the 'Committee').

Veterans' Administration/Department of Defense Health-Care Resources Sharing Committee. Establishment.

"(2) The Committee shall be composed of—

"(A) the Chief Medical Director and such other officers and employees of the Veterans' Administration as the Chief Medical Director may designate; and

"(B) the Assistant Secretary of Defense for Health Affairs (hereinafter in this section referred to as the 'Assistant Secretary') and such other officers and employees of the Department of Defense as the Assistant Secretary may designate, except that the size of the Committee shall be mutually determined by the Chief Medical Director and the Assistant Secretary. During fiscal years 1982 and 1983, the Chief Medical Director shall be the chairman of the Committee. During fiscal year 1984, the Assistant Secretary shall be the chairman of the Committee. Thereafter, the chairmanship of the Committee shall alternate each fiscal year between the Chief Medical Director and the Assistant Secretary. The agencies shall provide administrative support services for the Committee at a level sufficient for the efficient operation of the Committee and shall share the responsibility for the provision of such services on an equitable basis.

"(3) In order to enable the Committee to make recommendations under paragraph (4) of this subsection, the Committee shall on a continuing basis—

Duties.

"(A) review existing policies, procedures, and practices relating to the sharing of health-care resources between the agencies;

"(B) identify and assess further opportunities for the sharing of health-care resources between the agencies that would not, in the judgment of the Committee, adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency;

"(C) identify changes in policies, procedures, and practices that would, in the judgment of the Committee, promote such sharing of health-care resources between the agencies;

"(D) monitor plans of the agencies for the acquisition of additional health-care resources, including the location of new facilities and the acquisition of major equipment, in order to assess the potential impact of such plans on further opportunities for such sharing of health-care resources; and

"(E) monitor the implementation of activities designed to promote the sharing of health-care resources between the agencies.

"(4) Within nine months of the date of the enactment of this subsection and at such times thereafter as the Committee considers appropriate, the Committee shall make recommendations to the Administrator or the Secretary of Defense, or both, with respect to (A) changes in policies, procedures, and practices that the Committee has identified under paragraph (3)(C) of this subsection pertain-

Recommendations to VA Administrator or DOD Secretary.

ing to the sharing of health-care resources described in such paragraph, and (B) such other matters as the Committee considers appropriate in order to promote such sharing of health-care resources.

Health-care  
resources  
sharing  
guidelines.

10 USC 1071 *et*  
*seq.*

"(c)(1) After considering the recommendations made under subsection (b)(4) of this section, the Administrator and the Secretary of Defense shall jointly establish guidelines to promote the sharing of health-care resources between the agencies. Guidelines established under this subsection shall provide for such sharing consistent with the health-care responsibilities of the Veterans' Administration under this title and with the health-care responsibilities of the Department of Defense under chapter 55 of title 10 and so as not to adversely affect the range of services, the quality of care, or the established priorities for care provided by either agency.

"(2) Guidelines established under paragraph (1) of this subsection shall authorize the heads of individual medical facilities of the agencies to enter into health-care resources sharing agreements in accordance with subsection (d) of this section and shall include guidelines for such agreements.

Sharing  
agreements.

"(d)(1) The head of each medical facility of either agency is authorized to enter into sharing agreements with the heads of medical facilities of the other agency in accordance with guidelines established under subsection (c) of this section. Under any such agreement, an individual who is a primary beneficiary of one agency may be provided health care at a facility of the other agency that is a party to the sharing agreement.

"(2) Each such agreement shall identify the health-care resources to be shared.

"(3) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing agency (A) is on a referral basis from the facility of the other agency, and (B) does not (as determined by the head of the facility of the providing agency) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing agency.

Reimbursement.

"(4) Each such agreement shall provide that a providing agency shall be reimbursed for the cost of the health-care resources provided under the agreement and that the rate for such reimbursement shall be determined in accordance with the methodology agreed to pursuant to subsection (e) of this section.

Agreement  
proposals,  
submittal.

"(5) Each proposal for an agreement under paragraph (1) of this subsection shall be submitted to the Chief Medical Director and the Assistant Secretary and shall be effective as an agreement in accordance with its terms (A) on the forty-sixth day after the receipt of such proposal by both such officials, unless earlier disapproved by either such official, or (B) if earlier approved by both such officials, on the date of such approval.

Reimbursement  
methodology  
provisions.

"(e) Reimbursement under any sharing agreement entered into under subsection (d) of this section shall be based upon a methodology that is agreed upon by the Chief Medical Director and the Assistant Secretary and that provides appropriate flexibility to the heads of the facilities concerned to take into account local conditions and needs and the actual costs to the providing agency's facility of the health-care resources provided. Any funds received through such a reimbursement shall be credited to funds that have been allotted to the facility that provided the care or services.

“(f) At the time the President’s Budget is transmitted to Congress in any year pursuant to section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), the Administrator and the Secretary of Defense shall submit a joint report to Congress on the implementation of this section during the fiscal year that ended during the previous calendar year. Each such report shall include—

Report to Congress.

“(1) the guidelines prescribed under subsection (c) of this section (and any revision of such guidelines);

“(2) the assessment of further opportunities identified under clause (B) of subsection (b)(3) of this section for sharing of health-care resources between the agencies;

“(3) any recommendation made under subsection (b)(4) of this section during such fiscal year;

“(4) a review of the sharing agreements entered into under subsection (d) of this section and a summary of activities under such agreements during such fiscal year;

“(5) a summary of other planning and activities involving either agency in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year; and

“(6) such recommendations for legislation as the Administrator and the Secretary consider appropriate to facilitate the sharing of health-care resources between the agencies.

“(g) For the purposes of this section:

Definitions.

“(1) The term ‘beneficiary’ means a person who is a primary beneficiary of the Veterans’ Administration or of the Department of Defense.

“(2) The term ‘direct health care’ means health care provided to a beneficiary in a medical facility operated by the Veterans’ Administration or the Department of Defense.

“(3) The term ‘head of a medical facility’ (A) with respect to a medical facility of the Veterans’ Administration, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

“(4) The term ‘health-care resource’ includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 601 of this title, any other health-care service, and any health-care support or administrative resource.

“(5) The term ‘primary beneficiary’ (A) with respect to the Veterans’ Administration means a person who is eligible under this title (other than under section 611(b) or 613 or subsection (d) of this section) or any other provision of law for care or services in Veterans’ Administration medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

38 USC 611, 613.

“(6) The term ‘providing agency’ means the Veterans’ Administration, in the case of care or services furnished by a facility of the Veterans’ Administration, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.”

(b)(1) The heading of such section is amended to read as follows: 38 USC 5011.

**“§ 5011. Sharing of Veterans’ Administration and Department of Defense health-care resources”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

“5011. Sharing of Veterans’ Administration and Department of Defense health-care resources.”.

38 USC 5011  
note.

(c) The Assistant Secretary of Defense for Health Affairs shall consult regularly with the Surgeons General of the Army, Navy, and Air Force in carrying out the duties and functions assigned to the Assistant Secretary in section 5011 of title 38, United States Code, as amended by subsection (a) of this section.

38 USC 5011  
note.

(d) The guidelines required to be established under subsection (c) of section 5011 of title 38, United States Code, as added by subsection (a) of this section, shall initially be established not later than twelve months after the date of the enactment of this Act.

SEC. 4. (a) Chapter 81 of title 38, United States Code, is amended by inserting after section 5011 the following new section:

38 USC 5011A.

**“§ 5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency**

“(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Administrator may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Administrator may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Veterans’ Administration with the exception of veterans with service-connected disabilities.

Definitions.

38 USC 601, 101.

“(2) For the purposes of this section, the terms ‘hospital care’, ‘nursing home care’, and ‘medical services’ have the meanings given such terms by sections 601(5), 101(28), and 601(6) of this title, respectively.

Contracts with  
private facilities.

“(b)(1) During a period in which the Administrator is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Administrator, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

“(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

38 USC 612.

“(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Veterans’ Administration facility under subsection (f) or (g) of section 612 of this title, in a case in which the delay involved in furnishing such care or services at such Veterans’ Administration facility or at any other Veterans’ Administration facility reasonably accessible to the veteran would, in the judgment of the Chief Medical Director, be likely to result in a deterioration of such condition; and

“(B) hospital care for a veteran who—

“(i) is receiving hospital care under section 610 of this title; or

38 USC 610.

“(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Veterans’ Administration facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

“(c)(1) The cost of any care or services provided by the Veterans’ Administration under subsection (a) of this section shall be reimbursed to the Veterans’ Administration by the Department of Defense at such rates as may be agreed upon by the Administrator and the Secretary of Defense based on the cost of the care or services provided.

Care or service costs, reimbursement.

“(2) Amounts received under this subsection shall be credited to funds allotted to the Veterans’ Administration facility that provided the care or services.

“(d)(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans’ Affairs and on Armed Services of the Senate and House of Representatives.

Plans implementation.

Submittal to congressional committees.

“(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within thirty days after the modification is agreed to.

Review and report.

“(e) The Administrator shall prescribe regulations to govern any exercise of the authority of the Administrator under subsections (a) and (b) of this section and of the Chief Medical Director under subsection (b)(2)(A) of this section.

Regulations.

“(f) Within thirty days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such thirty-day period as is reasonably practicable), the Administrator shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the Administrator’s allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Administrator shall report within ninety days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used.”.

Reports to congressional committees.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5011 the following new item:

“5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency.”.

SEC. 5. (a) Section 1786(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

**“(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Veterans’ Administration readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981.”**

**(b) The amendment made by subsection (a) of this section shall take effect as of October 1, 1981.**

**SEC. 6. The Veterans’ Administration medical center located at 1481 West 10th Street, Indianapolis, Indiana, shall after the date of the enactment of this Act be known and designated as the “Richard L. Roudebush Veterans’ Administration Medical Center”. Any reference to such medical center in any law, regulation, document, map, record, or other paper of the United States shall after such date be deemed to be a reference to the Richard L. Roudebush Veterans’ Administration Medical Center.**

Approved May 4, 1982.

Effective date.  
38 USC 1786  
note.  
Richard L.  
Roudebush  
Veterans’  
Administration  
Medical Center,  
designation

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**LEGISLATIVE HISTORY—S. 266 (H.R. 3502):**

**HOUSE REPORTS:** No. 97-72, Pt. I (Comm. on Veterans’ Affairs) and Pt. II (Comm. on Armed Services) both accompanying H.R. 3502.

**SENATE REPORTS:** No. 97-137 (Comm. on Governmental Affairs) and No. 97-196 (Comm. on Veterans’ Affairs).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Oct. 27, considered and passed Senate.

Nov. 4, considered and passed House, amended, in lieu of H.R. 3502.

Vol. 128 (1982): Apr. 1, Senate agreed to House amendments with amendments.

Apr. 20, House concurred in Senate amendments.

Public Law 97-175  
97th Congress

An Act

To change the name of the landing strip at White Sands Missile Range in the State of New Mexico, to "White Sands Space Harbor".

May 11, 1982  
[S. 2373]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the landing strip known as Northrup Strip, located at White Sands Missile Range in the State of New Mexico, shall hereafter be known as "White Sands Space Harbor". Any law, regulation, document, or record of the United States in which such landing strip is designated or referred to shall be held and considered to be a reference to "White Sands Space Harbor".

White Sands  
Space Harbor,  
designation.

Approved May 11, 1982.

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LEGISLATIVE HISTORY—S. 2373:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Apr. 15, considered and passed Senate.  
Apr. 27, considered and passed House.



Public Law 97-176  
97th Congress

An Act

May 17, 1982

[S. 2244]

To give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979.

Northern Pacific  
Halibut Act of  
1982.

16 USC 773 note.

16 USC 773.

5 UST 5.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Northern Pacific Halibut Act of 1982".

SEC. 2. As used in this Act the term:

(a) "Convention" means the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, Canada on March 2, 1953, as amended by the Protocol Amending the Convention, signed at Washington March 29, 1979, and includes the regulations promulgated thereunder.

(b) "Commission" means the International Pacific Halibut Commission provided for by article III of the Convention.

(c) "Fishery conservation zone" means the fishery conservation zone of the United States established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(d) "Convention waters" means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

(e) "Halibut" means fish of the species *Hippoglossus stenolepis* inhabiting Convention waters.

(f) "Fishing vessel" means—

(1) any vessel engaged in catching fish in Convention waters or in processing or transporting fish loaded in Convention waters;

(2) any vessel outfitted to engage in any activity described in paragraph (1); or

(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

(g) "Secretary" means the Secretary of Commerce.

U.S.  
Commissioners.  
16 USC 773a.

Term of office.

SEC. 3. (a) The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners—

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and

(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 of title 5, United States Code, et seq. and section 2671 of title 28, United States Code, et seq. Section 3(a) shall take effect on the 90th day after the date of enactment of the Act.

Effective date.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

Alternates.

SEC. 4. The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article III of the Convention and paragraphs 14 and 15 of the annex to the Convention.

16 USC 773b.

SEC. 5. (a) The Secretary shall have general responsibility to carry out the Convention and this Act.

16 USC 773c.

(b) In fulfilling this responsibility, the Secretary—

Duties.

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 303 (b)(6) of the Magnuson Fishery Conservation and Management Act. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges: *Provided*, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in

Regulations.

16 USC 1853.

areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

Scientific and  
other programs,  
cooperation.  
16 USC 773d.

SEC. 6. Any agency of the Federal Government is authorized upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish on a reimbursable basis, facilities and personnel for the purposes of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

U.S. citizens,  
violations.  
16 USC 773e.

SEC. 7. It is unlawful—

(a) for any person subject to the jurisdiction of the United States—

(1) to violate any provision of the Convention, this Act or any regulation adopted under this Act;

(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this Act or any regulation adopted under this Act;

(3) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest or detention for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this Act, or any regulation adopted under this Act; or

(6) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that such person has committed any act prohibited by this section.

(b) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this Act and regulations adopted under this Act.

Penalty.  
16 USC 773f.

SEC. 8. (a) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 7 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require.

Review; notice of  
appeal.

(b) Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary and the Attorney General. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, in accordance with rules prescribed pur-

suant to section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 9. (a) A person is guilty of any offense if he commits an act prohibited by section 7(a) (2), (3), (4), or (6); or section 7(b). 16 USC 773g.

(b) Any offense described in subsection (a) is punishable by a fine of not more than \$50,000 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years or both.

(c) There is Federal jurisdiction over any offense described in this section.

SEC. 10. (a) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 7 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

Fishing vessel  
and contents,  
forfeiture to U.S.  
16 USC 773h.

(b) Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

- (1) the disposition of forfeited property;
- (2) the proceeds from the sale of forfeited property;
- (3) the remission or mitigation of forfeitures; and
- (4) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d)(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 11(d) shall—

(A) stay the execution of such process; or  
 (B) discharge any fish seized pursuant to such process;  
 upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations of the Secretary or the Secretary of the department in which the Coast Guard is operating.

(e) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 7 were taken or retained in violation of the Convention and this Act.

16 USC 773i.

SEC. 11. (a) The Convention, this Act, and any regulation adopted under this Act, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) Any officer who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) to enforce the Convention, this Act or any regulation adopted under this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 7;

(B) board, and search or inspect, any fishing vessel which is subject to this Act;

(C) at reasonable times enter, and search or inspect, shoreside facilities in which fish taken subject to this Act are processed, packed or held;

(D) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, an act prohibited by section 7;

(E) seize any fish (wherever found) taken or retained in the course of an act prohibited by section 7, or the proceeds of the sale of such fish; and

(F) seize any other evidence related to an act prohibited by section 7;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

Citations.

(c) If any officer authorized to enforce this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in the commission of an act prohibited by section 7, such

officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this Act. Any such court may, at any time—

Jurisdiction.

- (1) enter restraining orders or prohibitions;
- (2) issue warrants, process in rem or other process;
- (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interest of justice.

(e) When requested by the appropriate authorities of Canada, officers or employees of the Coast Guard, the National Oceanic and Atmospheric Administration or any other agency of the United States may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary for the prosecution in Canada of any violation of the Convention or any Canadian law relating to the enforcement thereof.

(f)(1) In cooperation with such other agencies as may be appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations as are deemed necessary to carry out the purposes of this Act.

Investigations.

(2) For the purpose of all investigations which, in the opinion of the Secretary, are necessary and proper for the enforcement of this Act, the Secretary or any officer designated by him is empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place or hearing.

(3) Process of the Secretary may be served by anyone duly authorized by him either—

(A) by delivering a copy thereof to the individual to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or the agent designated for service of process;

(B) by leaving a copy thereof at the residence or the principal office or place of business of such individual, partnership, or corporation; or

(C) by mailing a copy thereof by registered or certified mail addressed to such individual, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the individual so serving such complaint, order, or other process setting forth the manner of service shall be proof of same, and the returned post office receipt for such complaint, order, or other process mailed by registered or certified mail shall be proof of the service of the same.

Appropriation  
authorization.  
16 USC 773j.

**SEC. 12.** There is hereby authorized to be appropriated for fiscal year 1983 and beyond, such sums as may be necessary for carrying out the Convention and this Act, including—

(a) necessary travel expenses of the United States Commissioners or alternate Commissioners; and

(b) the United States share of the joint expenses of the Commission: *Provided*, That the Commissioners shall not, with respect to commitments concerning the United States share of the joint expenses of the Commission, be subject to section 262(b) of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments.

22 USC 262b.

Appropriation  
authorization.  
16 USC 773k.

**SEC. 13.** There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of State to provide for fiscal year 1983 and beyond, by contract, grant, or otherwise, facilities for office and any other necessary space for the Commission. Such facilities shall be located on or near the campus of the University of Washington in the State of Washington and shall be provided without regard to the cost-sharing provisions in the Convention.

Repeal.  
16 USC 772-772j.

**SEC. 14.** The Northern Pacific Halibut Act of 1937, as amended (50 Stat. 325, 67 Stat. 494, 79 Stat. 902), is repealed as of the 90th day after the date of enactment of this Act.

Approved May 17, 1982.

#### LEGISLATIVE HISTORY—S. 2244:

SENATE REPORT No. 97-323 (Comm. on Commerce, Science, and Transportation).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 22, considered and passed Senate.

May 4, considered and passed House.

Public Law 97-177  
97th Congress

An Act

To require the Federal Government to pay interest on overdue payments, and for other purposes.

May 21, 1982  
[S. 1131]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Prompt  
Payment Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act".

31 USC 1801  
note.

INTEREST PENALTIES ON LATE PAYMENTS

SEC. 2. (a)(1) In accordance with regulations prescribed by the Director of the Office of Management and Budget, each Federal agency which acquires property or services from a business concern but which does not make payment for each such complete delivered item of property or service by the required payment date shall pay an interest penalty to such business concern in accordance with this section on the amount of the payment which is due.

31 USC 1801.

(2) Such regulations—

(A) shall specify that the required payment date shall be—

(i) the date on which payment is due under the terms of the contract for the provision of such property or service; or

(ii) thirty days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

(B)(i) in the case of any acquisition of meat or of a meat food product, as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), shall specify a required payment date which is not later than seven days after the date of delivery of such meat or meat food product; and

(ii) in the case of any acquisition of a perishable agricultural commodity, as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4)), shall specify a required payment date consistent with requirements imposed pursuant to such Act;

(C) shall specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery; and

(D) shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice which would prevent the running of the time period specified in subparagraph (A)(ii).

(b)(1) Interest penalties on amounts due to a business concern under this Act shall be paid to the business concern for the period



Interest rate  
computation.

Publication in  
Federal Register.

Unpaid interest  
penalty.

Interest penalty  
payments.

beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before (A) the third day after the required payment date, in the case of meat or a meat food product described in subsection (a)(2)(B)(i); (B) the fifth day after the required payment date, in the case of an agricultural commodity described in subsection (a)(2)(B)(ii); or (C) the fifteenth day after the required payment date, in the case of any other item. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish each such rate in the Federal Register.

(2) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A Federal agency shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

(d)(1) Any recipient of a grant from a Federal agency may provide in a contract for acquisition of property or services from a business concern for the payment of interest penalties on amounts overdue under such contract, except that—

(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant.

(2) Such interest penalty payments shall be made under such terms and conditions as agreed to by the grant recipient and the business concern, consistent with the grant recipient's usual business practices and applicable State and local law.

#### LIMITATION ON DISCOUNT PAYMENTS

31 USC 1802.

SEC. 3. (a) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the Federal agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each agency which violates subsection (a) shall pay an interest penalty on any amount which remains unpaid in violation of such subsection. Such interest penalty shall accrue on such unpaid amount in accordance with the regulations prescribed pursuant to section 2, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period of time described in subsection (a).

## CLAIMS; RELATION TO OTHER LAW

SEC. 4. (a)(1) Claims for interest penalties which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this Act may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

31 USC 1803.

(2) Interest penalties under this Act shall not continue to accrue (A) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (B) for more than one year.

41 USC 601 note.

(3) Paragraph (2) shall not be construed to preclude the accrual of interest pursuant to section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after interest penalties have ceased accruing under this Act, and interest pursuant to such section may accrue on both any unpaid contract payment and on the unpaid interest penalty required by this Act.

(b) Except as provided in section 3 with respect to disputes concerning discounts, this Act shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a dispute between a Federal agency and a business concern over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest which may be payable with respect to the period while the dispute is being resolved, shall be subject to the Contract Disputes Act of 1978.

## CONGRESSIONAL OVERSIGHT

SEC. 5. (a) Each Federal agency shall file with the Director of the Office of Management and Budget a detailed report on any interest penalty payments made under this Act during the preceding fiscal year.

Report, filing with OMB.  
31 USC 1804.

(b) Such report shall include the number, amounts, and frequency of interest penalty payments, and the reasons such payments were not avoided by prompt payment, and shall be delivered to the Director within sixty days after the conclusion of each fiscal year.

Contents.

(c) The Director shall submit to the Committee on Governmental Affairs, the Committee on Appropriations, and the Committee on Small Business of the Senate and to the Committee on Government Operations, the Committee on Appropriations, and the Committee on Small Business of the House of Representatives within one hundred and twenty days after the conclusion of each fiscal year a report on Federal agency compliance with the requirements of this Act. Such report shall include a summary of the report submitted by each Federal agency under subsection (b) and an analysis of the progress made in reducing interest penalty payments by that agency from previous years.

Federal agency compliance; submittal to congressional committees.

## DEFINITIONS

SEC. 6. For the purposes of this Act—

31 USC 1805.

(1) the term "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code, but also includes any entity (A) which is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (B)

which is so identified for this purpose by the head of such agency;

(2) the term "business concern" means any person engaged in a trade or business and nonprofit entities operating as contractors;

(3) an invoice shall be considered a "proper invoice" when it contains or is accompanied by such substantiating documentation (A) as the Director of the Office of Management and Budget may require by regulation, and (B) as the Federal agency involved may require by regulation or contract;

(4) an invoice shall be deemed to have been received by an agency on the later of—

(A) the date on which the agency's designated payment office or finance center actually receives a proper invoice; or

(B) the date on which such agency accepts the property or service concerned;

(5) a payment shall be considered made on the date on which a check for such payment is dated; and

(6) a contract for the rental of real or personal property is a contract for the acquisition of that property.

#### EFFECTIVE DATE

31 USC 1801  
note.

**SEC. 7. (a)** This Act applies to the acquisition of property or services on or after the beginning of the first calendar quarter which begins more than ninety days after the date of enactment of this Act.

31 USC 1801  
note.

**(b)** The provisions of this Act requiring the promulgation of regulations shall be effective upon enactment, and such regulations shall be promulgated not later than ninety days after the date of enactment of this Act.

31 USC 1806.

**(c)** The provisions of this Act shall apply to the Tennessee Valley Authority, but any regulations promulgated under the authority of this Act shall not be applicable to the Tennessee Valley Authority, which shall be solely responsible for implementing the provisions of this Act with respect to its contracts.

Approved May 21, 1982.

#### LEGISLATIVE HISTORY—S. 1131 (H.R. 4709):

HOUSE REPORT No. 97-461 accompanying H.R. 4709 (Comm. on Government Operations).

SENATE REPORT No. 97-302 (Comm. on Governmental Affairs).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed Senate.

Vol. 128 (1982): Mar. 23, H.R. 4709 considered and passed House; proceedings vacated and S. 1131, amended, passed in lieu.

May 11, Senate concurred in House amendments.

Public Law 97-178  
97th Congress

Joint Resolution

To authorize and request the President to designate May 20, 1982, as "Amelia Earhart Day".

May 21, 1982  
[H.J. Res. 412]

Whereas Amelia Earhart was the first woman to fly across the Atlantic Ocean as a passenger;

Whereas Amelia Earhart set a number of altitude and speed records in various airplanes and autogiros, forerunners of the helicopter; Whereas Amelia Earhart was widely hailed as an aviator and an inspiring example to all;

Whereas Amelia Earhart worked for the promotion of sound aeronautics and was a strong influence in breaking down resistance to aviation;

Whereas Amelia Earhart was the first woman in American history to be awarded the Distinguished Flying Cross;

Whereas Amelia Earhart was the first woman to fly solo across the Atlantic Ocean on May 20-21, 1932: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to designate May 20, 1982, as "Amelia Earhart Day", as a tribute to that most daring of the pioneer women aviators, and to call upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate ceremonies and activities.

Amelia Earhart  
Day.

Approved May 21, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 412 (S.J. Res. 150):

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 18, considered and passed House.

May 19, considered and passed Senate, in lieu of S.J. Res. 150.

Public Law 97-179  
97th Congress

An Act

May 24, 1982  
[H.R. 2863]

To authorize the Secretary of Agriculture to sell the portion of the Tahoe National Forest known as Blyth Arena.

Tahoe National  
Forest, Blyth  
Arena; sale.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, the Secretary of Agriculture may dispose of by exchange pursuant to the General Exchange Act of March 20, 1922, as amended (16 U.S.C. 485, 486) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716, 1717) or by sale at public auction, for not less than fair market value, all right, title, and interest in the approximately 5.2 acres of land which is known as Blyth Arena and located in the Tahoe National Forest, which is an exception to land patent numbered 04-70-0146, and which is depicted on a map entitled "Blyth Arena Sale or Exchange Proposal", dated February 1981, on file in the office of the Chief, Forest Service, Department of Agriculture.

SEC. 2. If the Secretary of Agriculture disposes of the land described in section 1 of this Act by sale, the proceeds shall be retained by the Secretary and shall be used for acquisition by the Secretary of lands in the State of California which shall be included within the national forest system and shall be permanently reserved, held, and administered as part of such system.

Approved May 24, 1982.

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LEGISLATIVE HISTORY—H.R. 2863:

HOUSE REPORT No. 97-359 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-367 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): May 10, considered and passed Senate.

Public Law 97-180  
97th Congress

An Act

To amend titles 18 and 17 of the United States Code to strengthen the laws against record, tape, and film piracy and counterfeiting, and for other purposes.

May 24, 1982  
[S. 691]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Piracy and Counterfeiting Amendments Act of 1982".

Piracy and  
Counterfeiting  
Amendments  
Act of 1982.  
18 USC 2311  
note.

SEC. 2. Section 2318 of title 18, United States Code, is amended to read as follows:

**"§2318. Trafficking in counterfeit labels for phonorecords, and copies of motion pictures or other audiovisual works**

"(a) Whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in a counterfeit label affixed or designed to be affixed to a phonorecord, or a copy of a motion picture or other audiovisual work, shall be fined not more than \$250,000 or imprisoned for not more than five years, or both.

"(b) As used in this section—

Definitions.

"(1) the term 'counterfeit label' means an identifying label or container that appears to be genuine, but is not;

"(2) the term 'traffic' means to transport, transfer or otherwise dispose of, to another, as consideration for anything of value or to make or obtain control of with intent to so transport, transfer or dispose of; and

"(3) the terms 'copy', 'phonorecord', 'motion picture', and 'audiovisual work' have, respectively, the meanings given those terms in section 101 (relating to definitions) of title 17.

"(c) The circumstances referred to in subsection (a) of this section are—

"(1) the offense is committed within the special maritime and territorial jurisdiction of the United States; or within the special aircraft jurisdiction of the United States (as defined in section 101 of the Federal Aviation Act of 1958);

49 USC 1301.

"(2) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense; or

"(3) the counterfeit label is affixed to or encloses, or is designed to be affixed to or enclose, a copyrighted motion picture or other audiovisual work, or a phonorecord of a copyrighted sound recording.

"(d) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

“(e) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).”.

SEC. 3. Title 18, United States Code, is amended by inserting after section 2318 the following new section:

18 USC 2319.

**“§ 2319. Criminal infringement of a copyright**

“(a) Whoever violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsection (b) of this section and such penalties shall be in addition to any other provisions of title 17 or any other law.

“(b) Any person who commits an offense under subsection (a) of this section—

“(1) shall be fined not more than \$250,000 or imprisoned for not more than five years, or both, if the offense—

“(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least one thousand phonorecords or copies infringing the copyright in one or more sound recordings;

“(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; or

“(C) is a second or subsequent offense under either of subsection (b)(1) or (b)(2) of this section, where a prior offense involved a sound recording, or a motion picture or other audiovisual work;

“(2) shall be fined not more than \$250,000 or imprisoned for not more than two years, or both, if the offense—

“(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than one hundred but less than one thousand phonorecords or copies infringing the copyright in one or more sound recordings; or

“(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than seven but less than sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; and

“(3) shall be fined not more than \$25,000 or imprisoned for not more than one year, or both, in any other case.

“(c) As used in this section—

“(1) the terms ‘sound recording’, ‘motion picture’, ‘audiovisual work’, ‘phonorecord’, and ‘copies’ have, respectively, the meanings set forth in section 101 (relating to definitions) of title 17; and

“(2) the terms ‘reproduction’ and ‘distribution’ refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections 107 through 118, of title 17.”.

SEC. 4. The table of sections for chapter 113 of title 18 of the United States Code is amended by striking out the item relating to section 2318 and inserting in lieu thereof the following:

Definitions.

“2318. Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works.

“2319. Criminal infringement of a copyright.”.

SEC. 5. Section 506(a) of title 17, United States Code, is amended to read as follows:

“(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18.”.

Ante, p. 92.

Approved May 24, 1982.

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LEGISLATIVE HISTORY—S. 691 (H.R. 3530):

HOUSE REPORT No. 97-495 accompanying H.R. 3530 (Comm. on the Judiciary).

SENATE REPORT No. 97-274 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 1, considered and passed Senate.

Vol. 128 (1982): May 10, H.R. 3530 considered and passed House, amended; passage vacated and S. 691 passed in lieu.



Public Law 97-181  
97th Congress

## Joint Resolution

May 24, 1982

[H.J. Res. 361]

To grant official recognition to the international ballet competition.

International  
ballet  
competition.  
Recognition.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States recognizes the international ballet competition held in Jackson, Mississippi, under the sponsorship of the Mississippi Ballet International, Incorporated, as the official competition within the United States, and this organization and its participants as the official representatives of the United States in the international ballet competition cycle, which originated in Varna, Bulgaria, in 1964, and rotates among the cities of Varna, Bulgaria; Tokyo, Japan; Moscow, Union of Soviet Socialist Republics; and Jackson, Mississippi.

Approved May 24, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 361 (S.J. Res. 127):

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 11, considered and passed House.

May 5, considered and passed Senate, in lieu of S.J. Res. 127.

Public Law 97-182  
97th Congress

Joint Resolution

To designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week".

May 24, 1982  
[S.J. Res. 170]

Whereas hospice care provided in the United States has demonstrated that it is possible for people who are nearing the end of life to have appropriate, competent, and compassionate care;

Whereas providers of hospice care are interdisciplinary teams of physicians, nurses, social workers, pharmacists, physical and occupational therapists, psychological and spiritual counselors, and other trained community volunteers;

Whereas hospice services are provided by volunteer teams on an unintermittent basis, tailored to the needs of each individual patient and patient family;

Whereas the hospice care concept has not had the national recognition necessary to cause general public awareness of an alternate care system for the terminally ill;

Whereas lack of national recognition has caused many hundreds of patients and patient families to suffer unnecessary physical, emotional, and spiritual pain and grief attendant on terminal illness; and

Whereas hospice care is a realistic alternative to unnecessary suffering that allows terminally ill patients and their families the opportunity to live and die in peace and comfort in an environment of personal individuality and integrity: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week of November 7, 1982, through November 14, 1982, is designated as "National Hospice Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies, the medical community, appropriate private

National  
Hospice Week.

organizations, and the people of the United States to observe the week with appropriate forums, programs, and activities designed to encourage national recognition and support for the hospice care concept as a realistic and humane response to the needs of the terminally ill.

Approved May 24, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 170:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 1, considered and passed Senate.

May 11, considered and passed House.

Public Law 97-183  
97th Congress

Joint Resolution

Authorizing and requesting the President to proclaim "National Orchestra Week".

May 24, 1982  
[S.J. Res. 145]

Whereas America's one thousand five hundred and seventy-two symphony and chamber orchestras are among our Nation's finest cultural and artistic resources, providing inspiration and enjoyment to more than twenty-three million people each year throughout the country;

Whereas America's greatest professional orchestras are internationally recognized as among the finest in the world, setting the standards of excellence against which other musical endeavors are measured;

Whereas America's orchestras serve their communities as total musical resources by supporting other arts activities and cooperating in joint artistic ventures;

Whereas America's orchestras cultivate a national musical heritage by nurturing young talent, providing opportunities for American-trained musicians and conductors, and promoting performances of American music;

Whereas America's orchestras educate the youth of the country by providing high quality music education through youth concerts, in-school demonstrations and training programs, and master classes;

Whereas America's orchestras reach diverse audiences beyond the concert hall through regional and national tours, free outdoor performances, and other special events;

Whereas the success of America's orchestras has been the result of a joint effort of skilled professionals and dedicated volunteers working together to promote and produce music in their communities; and

Whereas America's orchestras have grown in size and artistic quality during the past ten years, with the help of direct grants from the orchestra program of the National Endowment for the Arts:  
Now, therefore, be it

National  
Orchestra Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning June 13, 1982, is designated as "National Orchestra Week", and the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and the people of the United States to observe that week by engaging in appropriate activities and programs, thereby showing their support of America's orchestras and the arts.

Approved May 24, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 145:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 4, considered and passed Senate.

May 11, considered and passed House.

Public Law 97-184  
97th Congress

An Act

To authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes.

May 24, 1982  
[S. 146]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* (a) in order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary of the Interior is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

Camden, S.C.  
Historic  
preservation.  
16 USC 461 note.

16 USC 462.

(b) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$250,000.

Appropriation  
authorization.

Approved May 24, 1982.

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**LEGISLATIVE HISTORY—S. 146:**

HOUSE REPORT No. 97-459 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-207 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 21, considered and passed Senate.  
Vol. 128 (1982): Mar. 23, considered and failed of passage in House.  
May 11, considered and passed House.

Public Law 97-185  
97th Congress

An Act

May 24, 1982  
[H.R. 6038]

To amend section 235 of the National Housing Act.

National  
Housing Act,  
amendment.  
12 USC 1715z.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth sentence of section 235(h)(1) of the National Housing Act is amended by striking out "March 31, 1982" each place it appears and inserting in lieu thereof "September 30, 1982".*

Approved May 24, 1982.

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LEGISLATIVE HISTORY—H.R. 6038 (H.R. 5708, S. 2344):

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 23, H.R. 5708 considered and passed House.  
Mar. 29, H.R. 5708 considered and passed Senate, amended.  
Apr. 1, S. 2344 considered and passed Senate.  
Apr. 20, considered and passed House.  
May 12, considered and passed Senate.

Public Law 97-186  
97th Congress

An Act

To amend Public Law 90-553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes.

May 25, 1982  
[S. 1611]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first section of the Act approved October 8, 1968 (Public Law 90-553, 82 Stat. 958), is amended—

District of  
Columbia,  
property use for  
an international  
center.

(1) in the first sentence by striking out “sell or lease” and inserting in lieu thereof: “develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease”;

(2) by striking out “Van Ness Street, Reno Road, and Tilden Street” and inserting in lieu thereof: “Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility”; and

(3) by striking out “he” and inserting “the Secretary”.

SEC. 2. Section 2 of such Act of October 8, 1968 (Public Law 90-553), is amended to read as follows:

“SEC. 2. Upon the request of any foreign government or international organization and with funds provided by such government or organization in advance, the Administrator of General Services is authorized to design, construct, and equip a headquarters building or legation building or related facilities on property conveyed pursuant to the first section of this Act.”

SEC. 3. Section 3 of such Act of October 8, 1968 (Public Law 90-553), is deleted, and sections 4 to 6 of such Act, inclusive, are renumbered as sections 3 to 5, including references thereto. The first sentence of renumbered section 3 is amended to read as follows “The Act of June 20, 1938 (D.C. Code, secs. 5-413 to 5-428), shall not apply to buildings constructed on property transferred or conveyed pursuant to this Act including section 3 of this Act as in effect January 1, 1980.”

SEC. 4. Section 4 of such Act of October 8, 1968 (Public Law 90-553), as renumbered by this Act is amended by—

(1) inserting “demolition or removal of existing structures, site preparation, and the” immediately after “The”;

(2) striking out “and” immediately before “(d)”;

(3) inserting “(e) other utilities, and (f) related improvements necessary to accomplish the purposes of this Act,” immediately after “the fire alarm system,”; and

(4) inserting “or contiguous to” after “within”.

SEC. 5. Section 5 of such Act of October 8, 1968 (Public Law 90-553), as renumbered by this Act is amended by—



Maintenance,  
security and  
survey funding.

(1) inserting “, exchange,” after “sale” in the first sentence, and by inserting “, exchanges,” after “sales” in the second sentence thereof; and

(2) adding at the end thereof the following: “The Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation’s Capital for chancery and diplomatic purposes. Amounts in the reserve will be available only to the extent and in such amounts as provided in advance in appropriations Acts.”.

International  
Center Act,  
designation.

SEC. 6. The Act of October 8, 1968 (Public Law 90-553), is further amended by adding at the end thereof the following new section: “SEC. 6. This Act may be cited as the ‘International Center Act’.”.

Approved May 25, 1982.

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**LEGISLATIVE HISTORY—S. 1611 (H.R. 4716):**

HOUSE REPORT No. 97-324 accompanying H.R. 4716 (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-281 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 29, considered and passed Senate.

May 13, considered and passed House, in lieu of H.R. 4716.

Public Law 97-187  
97th Congress

## Joint Resolution

To provide for the designation of September 5, 1982, as "Working Mothers' Day".

June 1, 1982  
[S.J. Res. 53]

Whereas more than sixteen million American women are employed outside the home and have children under the age of eighteen; Whereas these working mothers are making unique and substantial contributions, to both the growth of the economy and the strength of the American family; and

Whereas working mothers deserve special recognition for fulfilling their exceptional responsibilities in the home and in the world of commerce: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is authorized and requested to issue a proclamation designating September 5, 1982, as "Working Mothers' Day", and calling upon families, individual citizens, labor and civic organizations, the media, and the business community to acknowledge the importance of the working mother and to express appreciation for her role in American society.

Working  
Mothers' Day.

Approved June 1, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 53:

CONGRESSIONAL RECORD:

Vol. 127 (1981): July 31, considered and passed Senate.

Vol. 128 (1982): May 11, considered and passed House, amended.

May 19, Senate concurred in House amendments.

Public Law 97-188  
97th Congress

Joint Resolution

June 1, 1982  
[S.J. Res. 59]

Designating the square dance as the national folk dance of the United States.

Whereas square dancing has been a popular tradition in America since early colonial days;

Whereas square dancing has attained a revered status as part of the folklore of this country;

Whereas square dancing is a joyful expression of the vibrant spirit of the people of the United States;

Whereas the American people value the display of etiquette among men and women which is a major element of square dancing;

Whereas square dancing is a traditional form of family recreation which symbolizes a basic strength of this country, namely, the unity of the family;

Whereas square dancing epitomizes democracy because it dissolves arbitrary social distinctions; and

Whereas it is fitting that the square dance be added to the array of symbols of our national character and pride: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the square dance is designated the national folk dance of the United States of America for 1982 and 1983.

National folk  
dance,  
designation.

Approved June 1, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 59:

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 23, considered and passed Senate.

Vol. 128 (1982): May 11, considered and passed House, amended.

May 19, Senate concurred in House amendment.

Public Law 97-189  
97th Congress

## Joint Resolution

To provide for the designation of July 9, 1982, and April 9, 1983, as "National P.O.W./M.I.A. Recognition Day".

June 1, 1982  
[S.J. Res. 160]

Whereas the United States has fought in many wars;  
Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;  
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;  
Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and  
Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the ninth day of July 1982 and the ninth day of April 1983 shall be designated as "National P.O.W./M.I.A. Recognition Day" and the President of the United States is authorized and requested to issue a proclamation each year calling upon the people of the United States to commemorate such day with appropriate activities.

National  
P.O.W./M.I.A.  
Recognition Day.

Approved June 1, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 160 (H.J. Res. 479):

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 5, considered and passed Senate.

May 11, H.J. Res. 479 considered and passed House; proceedings vacated and

S.J. Res. 160, amended, passed in lieu.

May 19, Senate concurred in House amendments.

Public Law 97-190  
97th Congress

## An Act

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June 1, 1982  
[S. 2575]

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Energy Policy  
and Conserva-  
tion Act,  
extension.  
*Ante*, p. 24.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "June 1, 1982" and inserting in lieu thereof "July 1, 1982".

Approved June 1, 1982.

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LEGISLATIVE HISTORY—S. 2575:

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 27, considered and passed Senate and House.

Public Law 97-191  
97th Congress

## An Act

To regulate the operation of foreign fish processing vessels within State waters.

June 1, 1982

[S. 2535]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 306 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856) is amended by adding at the end thereof the following new subsection:

Foreign fish  
processing  
vessels within  
State waters,  
regulation.

“(c) EXCEPTION REGARDING FOREIGN FISH PROCESSING IN INTERNAL WATERS.—(1) A foreign fishing vessel may engage in fish processing within the internal waters of a State if, and only if—

“(A) the vessel is qualified for purposes of this paragraph pursuant to paragraph (4)(C); and

“(B) the owner or operator of the vessel applies to the Governor of the State for, and (subject to paragraph (2)) is granted, permission for the vessel to engage in such processing.

“(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)(B) if he determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.

“(3) Nothing in this subsection may be construed as relieving a foreign fishing vessel from the duty to comply with all applicable Federal and State laws while operating within the internal waters of a State incident to permission obtained under paragraph (1)(B).

“(4) For purposes of this subsection—

“(A) The term ‘fish processing’ includes, in addition to processing, the performance of any other activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, or transportation.

“(B) The phrase ‘internal waters of a State’ means all waters within the boundaries of a State except those seaward of the baseline from which the territorial sea is measured.

“(C) A foreign fishing vessel shall be treated as qualified for purposes of paragraph (1) if the foreign nation under which it is flagged will be a party to (i) a governing international fishery agreement or (ii) a treaty described in section 201(b) of this Act (16 U.S.C. 1821(b)) during the time the vessel will engage in the fish processing for which permission is sought under paragraph (1)(B).”

SEC. 2. Section 307(2) of such Act of 1976 (16 U.S.C. 1857(2)) is amended—

(1) by striking out “in fishing—” and inserting in lieu thereof a hyphen;

(2) by amending subparagraph (A) by inserting “in fishing” immediately after “(A)”, and by striking out “or”;

Definitions.

(3) by amending subparagraph (B) by inserting "in fishing" immediately after "(B)", and by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(4) by adding at the end thereof the following new subparagraph:

"(C) except as permitted under section 306(c), in fish processing (as defined in paragraph (4)(A) of such section) within the internal waters of a State (as defined in paragraph (4)(B) of such section); and".

SEC. 3. This Act shall take effect on June 1, 1982.

Approved June 1, 1982.

Effective  
date.  
16 USC 1856  
note.

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**LEGISLATIVE HISTORY—S. 2535:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 17, considered and passed Senate.

May 25, considered and passed House, amended.

May 27, Senate concurred in House amendments.

Public Law 97-192  
97th Congress

An Act

To recognize the organization known as the American Council of Learned Societies.

June 1, 1982

[H.R. 4769]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

American  
Council of  
Learned  
Societies.  
Charter.  
36 USC 1901.

CHARTER

SECTION 1. The American Council of Learned Societies, organized and incorporated under the Nonprofit Corporation Act of the District of Columbia, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. American Council of Learned Societies (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

36 USC 1902.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include the advancement of the humanistic studies in all fields of learning and the maintenance and strengthening of relations among the national societies devoted to such studies, and the corporation shall function as authorized by the laws of the State or States where it is incorporated.

36 USC 1903.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 1904.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation.

36 USC 1905.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of

36 USC 1906.



the corporation and in conformity with the laws of the State or States in which it is incorporated.

#### OFFICERS OF CORPORATION

36 USC 1907. SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

#### RESTRICTIONS

36 USC 1908. SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

#### LIABILITY

36 USC 1909. SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

#### BOOKS AND RECORDS; INSPECTION

36 USC 1910. SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

#### AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(56) American Council of Learned Societies."

## ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as in the report of the audit required by section 11 of this Act. The report shall not be printed as a public document. 36 USC 1911.

## RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 1912.

## DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 1913.

## TAX EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 1914.

Approved June 1, 1982.

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**LEGISLATIVE HISTORY—H.R. 4769:**

HOUSE REPORT No. 97-285 (Comm. on the Judiciary).

SENATE REPORT No. 97-395 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Oct. 26, considered and passed House.

Vol. 128 (1982): May 24, considered and passed Senate.

Public Law 97-193  
97th Congress

Joint Resolution

June 15, 1982

[S.J. Res. 149]

To designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week".

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated two million children become victims of child abuse in this Nation each year;

Whereas an estimated five thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous, the National Committee for the Prevention of Child Abuse, American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break their destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations, such as the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous and other members of the National Child Abuse Coalition are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the Nation's attention upon the problem of child abuse: Now, therefore, be it

42 USC 5101  
note.

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*** That the week of June 6, 1982, through June 12, 1982, is designated as “National Child Abuse Prevention Week” and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

National Child  
Abuse  
Prevention  
Week.

Approved June 15, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 149:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 15, considered and passed Senate.

June 3, considered and passed House.

Public Law 97-194  
97th Congress

Joint Resolution

Designating "National Theatre Week".

June 16, 1982

[S.J. Res. 131]

Whereas many Americans have devoted much time and energy for advancing the cause of theatre; and

Whereas the theatres of America have pioneered the way for many performers and have given them their start in vaudeville and stage; and

Whereas theatre is brought to Americans through high schools, colleges, and community theatre groups as well as through professional acting companies; and

Whereas citizens of America have been called upon to support the theatre arts in the Nation's interest; and

Whereas many individuals and organizations are hailing the strength and vitality of the theatres of America: Now, therefore, be it

National  
Theatre Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of June 7 through 13, 1982, shall be proclaimed "National Theatre Week" throughout the country, and all citizens are urged to support this effort with assistance to theatres throughout the country.

Approved June 16, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 5, considered and passed Senate.

June 3, considered and passed House.

Public Law 97-195  
97th Congress

An Act

To authorize an Under Secretary of Commerce for Economic Affairs.

June 16, 1982  
[S. 1808]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) there shall be in the Department of Commerce an Under Secretary of Commerce for Economic Affairs who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties as the Secretary of Commerce shall prescribe.

Under Secretary  
of Commerce for  
Economic  
Affairs.  
15 USC 1503a.

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting before "and Under" in the item relating to the Under Secretaries of Commerce: ", Under Secretary of Commerce for Economic Affairs,".

(2) Section 5315 of title 5, United States Code, is amended in the item relating to the Assistant Secretaries of Commerce by striking out "(7)" and inserting in lieu thereof "(8)".

(c)(1) Section 2 of the Act entitled "An Act to establish the Departments of Commerce and Labor", approved February 14, 1903, as amended (15 U.S.C. 1504) is amended by striking out the first two sentences.

(2) Section 8 of the Air Commerce Act of 1926 (44 Stat. 568; 52 Stat. 1029) is hereby repealed.

Repeal.  
15 USC 1505  
note.

(3) Section 601(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201) is amended by striking out "and shall be compensated at the rate provided for level IV of the Federal Executive Salary Schedule".

(4) Section 9(a) of the Maritime Appropriation Authorization Act for Fiscal Year 1978 (15 U.S.C. 1507b) is amended by striking out "shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and".

(5) Section 4 of the Reorganization Plan Numbered 1 of 1977 (91 Stat. 1633; 5 U.S.C. Appendix) is amended by striking out ", and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for level IV of the Executive Schedule".

3 USC note prec.  
101.

(6) Section 2(d) of Reorganization Plan Numbered 3 of 1979 (93 Stat. 1382; 5 U.S.C. Appendix) is amended by striking out "shall receive compensation at the rate payable for level IV of the Executive Schedule, and".

19 USC 2171  
note.

SEC. 2. During the fiscal year ending September 30, 1982, any payment or obligation pursuant to this Act may be made only to

such extent or in such amounts as are provided in advance in appropriation Acts.

Approved June 16, 1982.

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**LEGISLATIVE HISTORY—S. 1808 (H.R. 3141):**

**HOUSE REPORT:** No. 97-391 accompanying H.R. 3141 (Comm. on Post Office and Civil Service).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed Senate.

Vol. 128 (1982): May 11, H.R. 3141 considered and passed House; proceedings vacated and S. 1808, amended, passed in lieu.

May 27, Senate concurred in House amendment.

Public Law 97-196  
97th Congress

Joint Resolution

Designating "Baltic Freedom Day".

June 18, 1982  
[S.J. Res. 201]

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence; and

Whereas the Baltic Republics have existed as independent, sovereign nations, belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions and languages, distinctly foreign to those of Russia; and

Whereas the Union of Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.; and

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Republics, thus threatening the Baltic cultures with extinction; and

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom; and

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest; and

Whereas the United States stands as a champion of liberty, dedicated to the principles of democracy, human rights, and religious freedom, and opposed to oppression; and

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world to determine their fates and be free of foreign domination; and

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Congress of the United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R. and deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June 1982, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a

Baltic Freedom  
Day.



symbol of the solidarity of the American people with the aspirations of the captive Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities.

Approved June 18, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 201:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 9, considered and passed Senate.

June 14, considered and passed House.

Public Law 97-197  
97th Congress

An Act

To designate the control tower at Memphis International Airport the Omlie Tower.

June 21, 1982

[S. 896]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the air traffic control tower at the Memphis International Airport is designated and shall hereafter be known as "Omlie Tower". Any reference in a law, map, regulation, document, or other paper of the United States to such control tower shall be held and considered to refer to "Omlie Tower".*

Omlie Tower,  
designation.

Approved June 21, 1982.

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LEGISLATIVE HISTORY—S. 896 (H.R. 3072):

HOUSE REPORT No. 97-517 accompanying H.R. 3072 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD:

Vol. 127 (1981): May 4, considered and passed Senate.

Vol. 128 (1982): June 7, H.R. 3072, considered and passed House; passage vacated and S. 896, passed in lieu.

Public Law 97-198  
97th Congress

Joint Resolution

June 21, 1982

[S.J. Res. 140]

Designating February 11, 1983, "National Inventors' Day".

National  
Inventors' Day.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of inventors to the welfare of our people, February 11, 1983, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.*

Approved June 21, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 140 (H.J. Res. 304):

CONGRESSIONAL RECORD, Vol. 128 (1982):

Feb. 10, H.J. Res. 304, considered and passed House.

Mar. 15, considered and passed Senate.

June 3, considered and passed House.

Public Law 97-199  
97th Congress

An Act

To amend section 5590 of the Revised Statutes to provide for adjusting the rate of interest paid on funds of the Smithsonian Institution deposited with the Treasury of the United States as a permanent loan.

June 22, 1982  
[H.R. 6132]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5590 of the Revised Statutes (20 U.S.C. 54) be amended to read as follows:

"SEC. 5590. So much of the property of James Smithson as has been received in money, and paid into the Treasury of the United States, being the sum of \$541,379.63, shall be lent to the United States Treasury and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of comparable maturities, and this interest is hereby appropriated for the perpetual maintenance and support of the Smithsonian Institution; and all expenditures and appropriations to be made, from time to time, to the purposes of the Institution shall be exclusively from the accruing interest, and not from the principal of the fund. All the moneys and stocks which have been, or may hereafter be, received into the Treasury of the United States, on account of the fund bequeathed by James Smithson, are hereby pledged to refund to the Treasury of the United States the sums hereby appropriated."

Smithsonian  
Institution funds  
deposited  
with the  
U.S. Treasury.  
Rate  
adjustment.

Refund.

SEC. 2. The amendment made by the first section shall apply with respect to fiscal years beginning after September 30, 1982.

Effective date.  
20 USC 54 note.

Approved June 22, 1982.

LEGISLATIVE HISTORY—H.R. 6132:

HOUSE REPORT No. 97-503 (Comm. on House Administration).  
SENATE REPORT No. 97-438 (Comm. on Rules and Administration).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 10, considered and passed House.  
June 9, considered and passed Senate.

Public Law 97-200  
97th Congress

An Act

June 23, 1982  
[H.R. 4]

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

Intelligence  
Identities  
Protection Act  
of 1982.  
50 USC 401 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Intelligence Identities Protection Act of 1982".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY  
INFORMATION

"PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER  
INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

50 USC 421.

"SEC. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

"(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than \$15,000 or imprisoned not more than three years, or both.

"DEFENSES AND EXCEPTIONS

50 USC 422.

"SEC. 602. (a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant

is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

“(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

“(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

“(c) It shall not be an offense under section 601 to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

Information, transmittal to congressional committees.

“(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

#### “REPORT

“SEC. 603. (a) The President, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

50 USC 423.

“(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

#### “EXTRATERRITORIAL JURISDICTION

“SEC. 604. There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

50 USC 424.

8 USC 1101.

#### “PROVIDING INFORMATION TO CONGRESS

“SEC. 605. Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

50 USC 425.

#### “DEFINITIONS

“SEC. 606. For the purposes of this title:

50 USC 426.

“(1) The term ‘classified information’ means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive

order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

“(2) The term ‘authorized’, when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

“(3) The term ‘disclose’ means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

“(4) The term ‘covert agent’ means—

“(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

“(i) whose identity as such an officer, employee, or member is classified information, and

“(ii) who is serving outside the United States or has within the last five years served outside the United States; or

“(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

“(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

“(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

“(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

“(5) The term ‘intelligence agency’ means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

“(6) The term ‘informant’ means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

“(7) The terms ‘officer’ and ‘employee’ have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

“(8) The term ‘Armed Forces’ means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

“(9) The term ‘United States’, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

“(10) The term ‘pattern of activities’ requires a series of acts with a common purpose or objective.”

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

**"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION**

**"Sec. 601. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.**

**"Sec. 602. Defenses and exceptions.**

**"Sec. 603. Report.**

**"Sec. 604. Extraterritorial jurisdiction.**

**"Sec. 605. Providing information to Congress.**

**"Sec. 606. Definitions."**

Approved June 23, 1982.

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**LEGISLATIVE HISTORY—H.R. 4 (S. 391):**

**HOUSE REPORTS:** No. 97-221 (Comm. on Intelligence) and No. 97-580 (Comm. of Conference).

**SENATE REPORT** No. 97-201 accompanying S. 391 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Sept. 23, considered and passed House.

Vol. 128 (1982): Feb. 25, Mar. 1, 15-17, S. 391 considered in Senate.

Mar. 18, H.R. 4 considered and passed Senate, amended.

June 2, 3, House considered and agreed to conference report.

June 10, Senate agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 18, No. 25 (1982):

June 23, Presidential statement.



Public Law 97-201  
97th Congress

An Act

June 23, 1982  
[H.R. 5432]

To authorize the presentation on behalf of the Congress of a specially struck gold medal to Admiral Hyman George Rickover.

Admiral Hyman  
George Rickover.  
Commemorative  
medal.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—*

(1) Admiral Hyman George Rickover has served his country for sixty-three years with the highest distinction, with uncommon dedication, and with great honor as an officer of the United States Navy;

(2) Admiral Rickover has pioneered the development of nuclear reactor technology for the propulsion of naval vessels, has provided the expertise to construct the world's first true submersible, and thereby has revolutionized the concepts of naval warfare;

(3) with an unswerving faith in, and devotion to, the United States of America, Admiral Rickover has contributed to the defense of our Nation and to the peaceful development of nuclear reactor technology for the world by developing and constructing the first full-scale nuclear electrical generating plant in the United States;

(4) Admiral Rickover has developed and maintained standards of safety for the use of nuclear energy which have permitted the continued safe operation of naval nuclear reactor plants from their inception to the one hundred and sixty-one plants in operation today; and

(5) Admiral Rickover has for many years provided the Congress of the United States his uncompromising, independent, and candid advice, and greatly assisted the Congress of the United States in its deliberations on the issues of national defense, nuclear energy, environmental protection, and other important matters.

SEC. 2. (a) The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized to present, on behalf of the Congress, to Admiral Hyman George Rickover, a gold medal of appropriate design in recognition of his distinguished service to the United States and for his unique world-renowned contributions to the development of safe nuclear energy and to the defense of the United States of America. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed \$22,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and

Appropriation  
authorization.

Duplicates.

the gold medal. The appropriation used to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved June 23, 1982.

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**LEGISLATIVE HISTORY—H.R. 5432 (S. 2018):**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Jan. 28, 29, S. 2018 considered and passed Senate.

Apr. 27, considered and passed House.

June 9, considered and passed Senate.

Public Law 97-202  
97th Congress

## An Act

June 24, 1982  
[H.R. 5566]

Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

John F. Kennedy  
Center for the  
Performing Arts,  
appropriation  
authorization.  
20 USC 761.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (e) of section 6 of the John F. Kennedy Center Act (Public Law 85-874, as amended; 20 U.S.C. 761) is amended by striking out the period in the last sentence and adding in lieu thereof “, and not to exceed \$4,247,000 for the fiscal year ending September 30, 1983.”

Approved June 24, 1982.

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LEGISLATIVE HISTORY—H.R. 5566 (S. 2134):

HOUSE REPORT No. 97-531 (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-458 accompanying S. 2134 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 3, considered and passed House.

June 9, considered and passed Senate.

Public Law 97-203  
97th Congress

An Act

To authorize the Smithsonian Institution to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.

June 24, 1982  
[H.R. 5659]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Board of Regents of the Smithsonian Institution is authorized to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.

National  
Museum of  
African Art and  
Eastern art  
center,  
authorization.

SEC. 2. Effective October 1, 1982, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution \$36,500,000 to carry out the purposes of this Act. Except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds appropriated pursuant to this section shall be obligated or expended until such time as there is available to such Board, from private donations or from other non-Federal sources, a sum which, when combined with the funds so appropriated, is sufficient to carry out the purposes of this Act.

20 USC 50 note.  
Appropriation  
authorization.  
20 USC 50 note.

SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

Transfer of  
funds.  
20 USC 50 note.

Approved June 24, 1982.

LEGISLATIVE HISTORY—H.R. 5659 (S. 2102):

HOUSE REPORT No. 97-534 (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-433 accompanying S. 2102 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 3, considered and passed House.

June 9, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 25 (1982):

June 24, Presidential statement.

Public Law 97-204  
97th Congress

Joint Resolution

June 28, 1982

[H.J. Res. 519]

To provide for a temporary increase in the public debt limit.

Public debt limit,  
temporary  
increase.  
31 USC 757b  
note.

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*** That during the period beginning on the date of the enactment of this Act and ending on September 30, 1982, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by \$743,100,000,000 (and any other provision of law providing for a temporary increase in such limit shall not apply).

Approved June 28, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 519:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 23, considered and passed House and Senate.

Public Law 97-205  
97th Congress

An Act

To amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

June 29, 1982  
[H.R. 3112]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting Rights Act Amendments of 1982".*

SEC. 2. (a) Subsection (a) of section 4 of the Voting Rights Act of 1965 is amended by striking out "seventeen years" each place it appears and inserting in lieu thereof "nineteen years".

(b) Effective on and after August 5, 1984, subsection (a) of section 4 of the Voting Rights Act of 1965 is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "or in any political subdivision of such State (as such subdivision existed on the date such determinations were made with respect to such State), though such determinations were not made with respect to such subdivision as a separate unit," before "or in any political subdivision with respect to which" each place it appears;

(3) by striking out "in an action for a declaratory judgment" the first place it appears and all that follows through "color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.", and inserting in lieu thereof "issues a declaratory judgment under this section.";

(4) by striking out "in an action for a declaratory judgment" the second place it appears and all that follows through "section 4(f)(2) through the use of tests or devices have occurred anywhere in the territory of such plaintiff.", and inserting in lieu thereof the following:

"issues a declaratory judgment under this section. A declaratory judgment under this section shall issue only if such court determines that during the ten years preceding the filing of the action, and during the pendency of such action—

"(A) no such test or device has been used within such State or political subdivision for the purpose or with the effect of denying or abridging the right to vote on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2);

"(B) no final judgment of any court of the United States, other than the denial of declaratory judgment under this section, has determined that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision and no consent decree, settlement, or agreement has

Voting Rights  
Act Amend-  
ments of 1982.  
42 USC 1971  
note, 1973 note.  
42 USC 1973b.

Declaratory  
judgment  
proceedings.

been entered into resulting in any abandonment of a voting practice challenged on such grounds; and no declaratory judgment under this section shall be entered during the pendency of an action commenced before the filing of an action under this section and alleging such denials or abridgements of the right to vote;

“(C) no Federal examiners under this Act have been assigned to such State or political subdivision;

“(D) such State or political subdivision and all governmental units within its territory have complied with section 5 of this Act, including compliance with the requirement that no change covered by section 5 has been enforced without preclearance under section 5, and have repealed all changes covered by section 5 to which the Attorney General has successfully objected or as to which the United States District Court for the District of Columbia has denied a declaratory judgment;

“(E) the Attorney General has not interposed any objection (that has not been overturned by a final judgment of a court) and no declaratory judgment has been denied under section 5, with respect to any submission by or on behalf of the plaintiff or any governmental unit within its territory under section 5, and no such submissions or declaratory judgment actions are pending; and

“(F) such State or political subdivision and all governmental units within its territory—

“(i) have eliminated voting procedures and methods of election which inhibit or dilute equal access to the electoral process;

“(ii) have engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under this Act; and

“(iii) have engaged in other constructive efforts, such as expanded opportunity for convenient registration and voting for every person of voting age and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process.

“(2) To assist the court in determining whether to issue a declaratory judgment under this subsection, the plaintiff shall present evidence of minority participation, including evidence of the levels of minority group registration and voting, changes in such levels over time, and disparities between minority-group and non-minority-group participation.

“(3) No declaratory judgment shall issue under this subsection with respect to such State or political subdivision if such plaintiff and governmental units within its territory have, during the period beginning ten years before the date the judgment is issued, engaged in violations of any provision of the Constitution or laws of the United States or any State or political subdivision with respect to discrimination in voting on account of race or color or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2) unless the plaintiff establishes that any such violations were trivial, were promptly corrected, and were not repeated.

“(4) The State or political subdivision bringing such action shall publicize the intended commencement and any proposed settlement

of such action in the media serving such State or political subdivision and in appropriate United States post offices. Any aggrieved party may as of right intervene at any stage in such action.”;

(5) in the second paragraph—

(A) by inserting “(5)” before “An action”; and

(B) by striking out “five” and all that follows through “section 4(f)(2).”, and inserting in lieu thereof “ten years after judgment and shall reopen the action upon motion of the Attorney General or any aggrieved person alleging that conduct has occurred which, had that conduct occurred during the ten-year periods referred to in this subsection, would have precluded the issuance of a declaratory judgment under this subsection. The court, upon such reopening, shall vacate the declaratory judgment issued under this section if, after the issuance of such declaratory judgment, a final judgment against the State or subdivision with respect to which such declaratory judgment was issued, or against any governmental unit within that State or subdivision, determines that denials or abridgements of the right to vote on account of race or color have occurred anywhere in the territory of such State or political subdivision or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision, or if, after the issuance of such declaratory judgment, a consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds.”; and

(6) by striking out “If the Attorney General” the first place it appears and all that follows through the end of such subsection and inserting in lieu thereof the following:

“(6) If, after two years from the date of the filing of a declaratory judgment under this subsection, no date has been set for a hearing in such action, and that delay has not been the result of an avoidable delay on the part of counsel for any party, the chief judge of the United States District Court for the District of Columbia may request the Judicial Council for the Circuit of the District of Columbia to provide the necessary judicial resources to expedite any action filed under this section. If such resources are unavailable within the circuit, the chief judge shall file a certificate of necessity in accordance with section 292(d) of title 28 of the United States Code.

“(7) The Congress shall reconsider the provisions of this section at the end of the fifteen-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

“(8) The provisions of this section shall expire at the end of the twenty-five-year period following the effective date of the amendments made by the Voting Rights Act Amendments of 1982.

“(9) Nothing in this section shall prohibit the Attorney General from consenting to an entry of judgment if based upon a showing of objective and compelling evidence by the plaintiff, and upon investigation, he is satisfied that the State or political subdivision has complied with the requirements of section 4(a)(1). Any aggrieved party may as of right intervene at any stage in such action.”.

(c) Section 4(f)(4) of the Voting Rights Act of 1965 is amended by inserting after “unwritten” in the proviso the following: “or in the

Congressional reconsideration.

Expiration date.

42 USC 1973b.



case of Alaskan Natives and American Indians, if the predominate language is historically unwritten”.

42 USC  
1973aa-1a.

(d) Section 203(c) of such Act is amended by inserting after “Natives” in the proviso the following: “and American Indians”.

42 USC 1973.

SEC. 3. Section 2 of the Voting Rights Act of 1965 is amended to read as follows:

“SEC. 2. (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).

42 USC 1973b.

“(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.”.

42 USC  
1973aa-1a.

SEC. 4. Section 203(b) of the Voting Rights Act of 1965 is amended by striking out “August 6, 1985” and inserting in lieu thereof “August 6, 1992”, and the extension made by this section shall apply only to determinations made by the Director of the Census under clause (i) of section 203(b) for members of a single language minority who do not speak or understand English adequately enough to participate in the electoral process when such a determination can be made by the Director of the Census based on the 1980 and subsequent census data.

42 USC  
1973aa-1a note.

SEC. 5. Effective January 1, 1984, title II of the Voting Rights Act of 1965 is amended by adding at the end the following section:

**“VOTING ASSISTANCE**

**“SEC. 208. Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.”**

42 USC  
1973aa-6.

**SEC. 6. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.**

Effective Date.  
42 USC 1973  
note.

Approved June 29, 1982.

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**LEGISLATIVE HISTORY—H.R. 3112 (S. 1992):**

**HOUSE REPORTS:** No. 97-227 and Pt. 2 (Comm. on the Judiciary).

**SENATE REPORT** No. 97-417 accompanying S. 1992 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Oct. 2, 5, considered and passed House.

Vol. 128 (1982): June 9, 10, 14-17. S. 1992 considered in Senate.

June 18, considered and passed Senate, amended, in lieu of S. 1992.

June 23, House concurred in Senate amendment.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 18, No. 26 (1982):

June 29, 1982, Presidential statement.

Public Law 97-206  
97th Congress

## An Act

June 30, 1982

[H.R. 3863]

Poultry Products  
Inspection Act,  
amendment.

To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 15(c)(3) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(3)) is amended by striking out "slaughters" and all that follows and inserting in lieu thereof the following: "; in the current calendar year—

"(A) slaughters or processes the products of more than 20,000 poultry; or

"(B) slaughters or processes the products of poultry at a facility used for slaughtering or processing of the products of poultry by any other poultry producer or person.

Notwithstanding clause (B), the Secretary may grant such exemption to any poultry producer or other person if the Secretary determines, upon application of such poultry producer or other person, that granting such exemption will not impair effectuating the purposes of this Act."

SEC. 2. Section 15(c)(4) of the Poultry Products Inspection Act (21 U.S.C. 464(c)(4)) is amended by striking out all of clause lettered (i) and inserting in lieu thereof the following: "(i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined;".

Approved June 30, 1982.

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LEGISLATIVE HISTORY—H.R. 3863:

HOUSE REPORT No. 97-589 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 14, considered and passed House.  
June 21, considered and passed Senate.

Public Law 97-207  
97th Congress

An Act

To designate the United States Post Office Building in Hartford, Connecticut, as the  
"William R. Cotter Federal Building".

June 30, 1982  
[H.R. 4569]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the building at 135 High Street, Hartford, Connecticut (commonly known as the High Street Post Office), shall hereafter be known, called, and designated as the "William R. Cotter Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the William R. Cotter Federal Building.

William R.  
Cotter  
Federal  
Building,  
designation.

Approved June 30, 1982.

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LEGISLATIVE HISTORY—H.R. 4569:

HOUSE REPORT No. 97-323 (Comm. on Public Works and Transportation).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 16, considered and passed House.  
Vol. 128 (1982): June 24, considered and passed Senate.

Public Law 97-208  
97th Congress

## An Act

June 30, 1982

[H.R. 6631]

Lebanon,  
humanitarian  
assistance.

22 USC 2292p.

Appropriation  
authorization.

22 USC 2292.

To authorize humanitarian assistance for the people of Lebanon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

**"SEC. 495J. LEBANON EMERGENCY RELIEF, REHABILITATION, AND RECONSTRUCTION ASSISTANCE.—(a)** The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering and resettlement needs of the innocent victims of recent strife in Lebanon. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief, rehabilitation, and reconstruction needs of such victims. Assistance provided under this section shall emphasize the provision of food, medicine, clothing, shelter, and water supply systems, and similar efforts to ameliorate the suffering of the people in Lebanon.

**"(b)** In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President \$50,000,000 to carry out this section. Amounts appropriated under this subsection are authorized to remain available until expended.

**"(c)** Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491."

Approved June 30, 1982.

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**LEGISLATIVE HISTORY—H.R. 6631:**

HOUSE REPORT No. 97-622 (Comm. on Foreign Affairs.)

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 23, considered and passed House.

June 24, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 26 (1982):

June 30, Presidential statement.

Public Law 97-209  
97th Congress

Joint Resolution

Imploing the Union of Soviet Socialist Republics to allow Doctor Semyon Gluzman and his family to emigrate to Israel.

June 30, 1982  
[H.J. Res. 230]

Whereas the reputation of Doctor Semyon Gluzman as a physician of outstanding psychiatric medical ability spread throughout the Soviet Union to the consternation of Soviet leaders;

Whereas Doctor Gluzman refused to cooperate with the KGB in certifying human rights advocates as mentally ill;

Whereas, subsequently, the doctor was arrested on charges of being a Zionist propagandist and an anti-Soviet agitator and found guilty and sentenced to prison for seven years, to be followed by three years in exile on October 19, 1972;

Whereas Doctor Gluzman's family received an invitation to join relatives in Israel; and

Whereas, for humanitarian and medical reasons, Doctor Semyon Gluzman should be freed from exile and allowed to emigrate with his family to the State of Israel: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That President Leonid Brezhnev of the Union of Soviet Socialist Republics authorize the immediate release of Doctor Semyon Gluzman from exile and grant permission for him and his family to emigrate to Israel.*

Dr. Semyon  
Gluzman and  
family,  
emigration  
to Israel.

SEC. 2. A copy of this resolution shall be forwarded to the Secretary of State of the United States of America for conveyance to President Leonid Brezhnev of the Union of Soviet Socialist Republics.

Approved June 30, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 230:

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 4, considered and passed House.

June 21, considered and passed Senate.

Public Law 97-210  
97th Congress

## Joint Resolution

June 30, 1982  
[H.J. Res. 518]To designate the week commencing with the fourth Monday in June 1982 as  
"National NCO/Petty Officer Week".

Whereas the noncommissioned officers and petty officers of the Army, Air Force, and Marine Corps and the petty officers of the Navy and the Coast Guard have been regarded as the backbone of the Armed Forces of the United States for more than two hundred years;

Whereas noncommissioned officers and petty officers continue to be the recruiters, trainers, and noncommissioned leaders of the men and women who join the Armed Forces of the United States; Whereas the noncommissioned officers' and petty officers' spirit and devotion to duty is epitomized in the long list of recipients of the Medal of Honor and other decorations of personal valor;

Whereas noncommissioned officers and petty officers have made great sacrifices during their service to this Nation;

Whereas the recent shortage of such officers serving on active duty has highlighted their value to the Nation and its military forces; and

Whereas it is fitting and proper to recognize the significant contributions made by all noncommissioned officers and petty officers of the Armed Forces of the United States to the freedom and defense of this Nation: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week commencing with the fourth Monday in June 1982 is designated as "National NCO/Petty Officer Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups and organizations to set aside that week to honor past and present noncommissioned officers and petty officers of the Armed Forces of the United States in an appropriate manner.

National  
NCO/Petty  
Officer Week.

Approved June 30, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 518 (S.J. Res. 161):

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 24, considered and passed House and Senate.

Public Law 97-211  
97th Congress

## An Act

To designate certain national wildlife refuge lands.

June 30, 1982

[S. 1519]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. That certain lands known as North Cudjoe Key, Monroe County, Florida, which comprise approximately seventy-three acres, will be designated for purposes of the Wilderness Act (16 U.S.C. 1131-1136) as wilderness at the time those lands are included in the National Wildlife Refuge System, and shall become part of the existing "Florida Keys Wilderness".

SEC. 2. That notwithstanding any other provision of law, on the date that certain lands referred to as Raccoon Key, Florida, comprising approximately twenty-five acres, and depicted on a map entitled "Florida Keys Wilderness and Great White Heron National Wildlife Refuge (West Part)" dated July 1975, are excluded from the National Wildlife Refuge System, they shall be excluded from the National Wilderness Preservation System.

SEC. 3. As soon as practical after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Florida Keys Wilderness with the Committee on Energy and Natural Resources of the Senate and the Interior and Insular Affairs Committee of the House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. A map and legal description of the Florida Keys Wilderness shall be on file and available for public inspection in the Office of the Director, Fish and Wildlife Service, Department of the Interior.

National  
Wildlife Refuge  
System.  
North Cudjoe  
Key, Fla.,  
inclusion.

Raccoon Key,  
Fla., exclusion.

Map and legal  
description,  
filing with  
congressional  
committees.



Administration.

16 USC 1101  
note.

**SEC. 4.** The lands designated by this Act as the Florida Keys Wilderness shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Approved June 30, 1982.

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**LEGISLATIVE HISTORY—S. 1519:**

HOUSE REPORT No. 97-599 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-377 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 10, considered and passed Senate.  
June 21, considered and passed House.

Public Law 97-212  
97th Congress

An Act

To improve the operation of the Fishermen's Contingency Fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf.

June 30, 1982

[H.R. 3816]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fishermen's  
Contingency  
Fund, improve-  
ment.

SECTION 1. DEFINITIONS.

Section 401 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841) is amended as follows:

- (1) renumber paragraphs (1) through (7) as paragraphs (2) through (8); and
- (2) insert immediately before paragraph (2), as renumbered, the following:

"(1) 'area affected by Outer Continental Shelf activities' means any geographic area:

"(A) which is under oil or gas lease on the Outer Continental Shelf;

"(B) where Outer Continental Shelf exploration, development or production activities have been permitted, except geophysical activities;

"(C) where pipeline rights-of-way have been granted; or

"(D) otherwise impacted by such activities including but not limited to expired lease areas, relinquished rights-of-way and easements, Outer Continental Shelf supply vessel routes, or other areas as determined by the Secretary;"

SECTION 2. ESTABLISHMENT AND OPERATION OF FUND.

Section 402 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1842) is amended to read as follows:

"ESTABLISHMENT OF FISHERMEN'S CONTINGENCY FUND; FEE  
COLLECTION

"SEC. 402. (a)(1) There is established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitations as a revolving fund for the purpose of making payments pursuant to this section. The Fund shall consist of—

"(A) revenues received from investments made under paragraph (3);

"(B) amounts collected under subsection (b); and

"(C) amounts recovered by the Secretary under section 405(h)(2).

The total amount in the Fund that is collected under subsection (b) may at no time exceed \$2,000,000; and the total amount in the Fund which is attributable to revenue received under paragraph (3) or recovered by the Secretary under section 405(h)(2) shall be expended prior to amounts collected under subsection (b). Not more than 8

*Post*, p. 145.

percent of the total amount in the Fund may be expended in any fiscal year for paying the administrative and personnel expenses referred to in paragraph (2)(A).

"(2) The Fund shall be available, as provided for in appropriation Acts solely for the payment of—

"(A) the personnel and administrative expenses incurred in carrying out this title;

"(B) any claim, in accordance with procedures established under this section, for damages that are compensable under this title; and

*Post*, p. 145.

"(C) attorney and other fees awarded under section 405(e) with respect to any such claim.

"(3) Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited into the Fund.

"(4) The Fund may sue and be sued in its own name. All litigation by or against the Fund shall be referred to the Attorney General.

"(b)(1) Except as provided in paragraph (2), each holder of a lease that is issued or maintained under the Outer Continental Shelf Lands Act and each holder of an exploration permit, or an easement or right-of-way for the construction of a pipeline in any area of the Outer Continental Shelf, shall pay an amount specified by the Secretary. The Secretary of the Interior shall collect such amount and deposit it into the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of \$5,000 per lease, permit, easement, or right-of-way.

"(2) Payments may not be required under paragraph (1) by the Secretary of the Interior with respect to geological permits and geophysical permits, other than prelease exploratory drilling permits issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340)."

### SEC. 3. ADMINISTRATION OF CLAIMS.

Section 403(c) of such amendments of 1978 (43 U.S.C. 1843(c)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(c)(1) Payments shall be disbursed by the Secretary from the Fund to compensate commercial fishermen for actual and consequential damages, including resulting economic loss, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with Outer Continental Shelf oil and gas exploration, development, or production activities. The compensation payable under this section for resulting economic loss shall be an amount equal to 25 per centum of such loss. For purposes of this subsection, the term 'resulting economic loss' means the gross income, as estimated by the Secretary, that a commercial fisherman who is eligible for compensation under this section will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the damaged or lost fishing gear concerned is repaired or replaced and available for use."

"Resulting economic loss."

(2) Paragraph (2) is amended—

(A) by striking out "any area account established under this title—" and inserting in lieu thereof "the Fund—",

- (B) by striking out subparagraphs (A) and (E),
- (C) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,
- (D) by inserting "and" after the semicolon in subparagraph (C) (as so redesignated),
- (E) by redesignating subparagraph (F) as subparagraph (D), and
- (F) by striking out "or will receive" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "received, or will receive,".

#### SEC. 4. BURDEN OF PROOF.

Section 404 of such amendments of 1978 (43 U.S.C. 1844) is amended—

(1) by amending the matter appearing before paragraph (1) to read as follows: "With respect to any claim for damages filed under this title, there shall be a presumption that such damages were due to activities related to oil and gas exploration, development, or production if the claimant establishes that—";

(2) by striking out "five days after the date on which such damages were discovered;" in paragraph (2) and inserting in lieu thereof "fifteen days after the date on which the vessel first returns to a port after discovering such damages;"; and

(3) by amending paragraph (3) to read as follows: "there was no record on the latest nautical charts or Notice to Mariners in effect at least 15 days prior to the date such damages were sustained that such material, equipment, tool, container, or other item existed where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain whether or not there was any such record of the pipeline on the damage date; and".

#### SEC. 5. CLAIMS PROCEDURE.

Section 405 of such amendments of 1978 (43 U.S.C. 1845) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) Upon receipt of any claim under this section, the Secretary shall transmit a copy of the claim to the Secretary of the Interior and shall take such further action regarding the claim that is required under subsection (d)."

(2) Subsection (c) is amended by striking out "hearing" and inserting in lieu thereof "proceeding".

(3) Subsection (d) is amended to read as follows:

"(d)(1) The Secretary shall, under regulations prescribed pursuant to section 403(a), specify the form and manner in which claims must be filed. 43 USC 1843.

"(2) The Secretary may not accept any claim that does not meet the filing requirements specified under paragraph (1), and shall give a claimant whose claim is not accepted written notice of the reasons for nonacceptance. Such written notice must be given to the claimant within 30 days after the date on which the claim was filed and if the claimant does not refile an acceptable claim within 30 days after the date of such written notice, the claimant is not eligible for compensation under this title for the damages concerned; except that the Secretary—

"(A) shall in any case involving a good faith effort by the claimant to meet such filing requirements, or

Nonacceptance,  
written notice.

Determination  
review.

“(B) may in any case involving extenuating circumstances, accept a claim that does not meet the 30-day refiling requirement.

“(3)(A) The Secretary shall make an initial determination with respect to the claim within 60 days after the day on which the claim is accepted for filing. Within 30 days after the day on which the Secretary issues an initial determination on a claim, the claimant, or any other interested person who submitted evidence relating to the initial determination, may petition the Secretary for a review of that determination.

“(B) If a petition for the review of an initial determination is not filed with the Secretary within the 30-day period provided under subparagraph (A), the initial determination shall thereafter be treated as a final determination by the Secretary on the claim involved.

“(C) If a petition for review of an initial determination is timely filed under subparagraph (A), the Secretary shall allow the petitioner 30 days after the day on which the petition is received to submit written or oral evidence relating to the initial determination. The Secretary shall then undertake such review and, on the basis of such review, issue a final determination no later than the 60th day after the day on which the Secretary received the petition for review of an initial determination.”.

(4) Subsection (e) is amended to read as follows:

“(e) If the decision of the Secretary under subsection (d) is in favor of the commercial fisherman filing the claim, the Secretary, as a part of the amount awarded, shall include reasonable claim preparation fees and reasonable attorney’s fees, if any, incurred by the claimant in pursuing the claim.”.

(5) Subsection (f) is amended by striking out “hearing examiner” each place it appears therein and inserting in lieu thereof “the Secretary”, and by striking out “hearing” each place it appears therein and inserting in lieu thereof “proceeding”.

(6) Subsection (g) is amended to read as follows:

“(g) Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located.”.

(7) Subsection (h) is amended—

(A) by amending paragraph (1) to read as follows:

“(h)(1) The amount awarded in an initial determination by the Secretary under subsection (d) shall be immediately disbursed, subject to the limitations of this section, by the Secretary if the claimant—

“(A) states in writing that he will not petition for review of the initial determination; and

“(B) enters into an agreement with the Secretary to repay to the Secretary all or any part of the amount of the award if, after review under subsection (d)(3)(C) or, if applicable, after judicial review, the amount of the award, or any part thereof, is not sustained.”; and

(B) paragraph (2) is amended by adding at the end thereof the following new sentence: “Any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.”.

(8) Subsection (i) is amended to read as follows:

"(i) Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d), may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant."

Judicial  
review.

#### SEC. 6. SURVEY OF OBSTRUCTIONS.

(a) Section 407 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1847) is repealed.

Repeal.

(b) The table of contents of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by striking:

"1847. Survey of obstructions on the Outer Continental Shelf."

#### SEC. 7. REGULATIONS IMPLEMENTING THIS ACT.

Section 403(a)(1) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(a)(1)) is amended by striking out "claims; and" and inserting in lieu thereof "claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this title shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and".

Publication  
in Federal  
Register.

#### SEC. 8. TECHNICAL AMENDMENT.

Section 401(3)(B) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841(3)(B)) is amended by striking out "at sea".

#### SEC. 9. EFFECTIVE DATE.

(a) Except as provided for in subsection (b), the amendments made by this Act shall apply with respect to claims for damages that are filed, on or after the date of the enactment of this Act, with the Secretary of Commerce under section 405(a) of the Outer Continental Shelf Lands Act Amendments of 1978.

43 USC 1841  
note.

(b)(1) Any commercial fisherman who filed a claim with the Secretary of Commerce for compensation under title IV of such amendments of 1978 before the date of the enactment of this Act may, if no decision on such claim was rendered under section 405(d) of such title IV before such date of enactment, refile such claim with the Secretary if the claimant notifies the Secretary in writing within thirty days after notification under paragraph (2) of his eligibility to refile the claim that he intends to so refile. If timely notification of intent to refile is made under the preceding sentence, any action pending with respect to the original claim shall be suspended pending the refiling of the claim under paragraph (2) and, if such refiling is timely made, such action shall be vacated.

43 USC 1845.

43 USC 1841.

*Ante*, p. 145.

(2) The Secretary shall notify each claimant eligible to refile a claim under paragraph (1) of such eligibility within 10 days after the date of enactment of this Act.

(3) A claim for which notification of intent to refile was timely made under paragraph (1) must be refiled with the Secretary within the thirty-day period after the date on which the regulations promulgated to implement the amendments made by this Act become

final or action shall be resumed with respect to such claim without regard to the amendments made by this Act.

(4) The amendments made by this Act shall apply with respect to any claim that is refiled on a timely basis under paragraph (3).

#### SEC. 10. GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

(a) Section 2 of the Fishery Conservation Zone Transition Act (16 U.S.C. 1823 note) is amended—

(1) by inserting “(a)” immediately before “Notwithstanding”; and

(2) by adding at the end thereof the following new subsection:  
“(b) Notwithstanding such section 203—

16 USC 1823.

“(1) the governing international fishery agreement referred to in subsection (a)(5), as extended until July 1, 1983 pursuant to the Diplomatic Notes referred to in the message to the Congress from the President of the United States dated May 11, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of such Act of 1976;

“(2) the governing international fishery agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs, as contained in the message to the House of Representatives and the Senate from the Secretary of State dated June 15, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of the Act of 1976; and

“(3) the governing international fishery agreement referred to in subsection (a)(6), as extended until July 1, 1983 pursuant to the Diplomatic Notes referred to in the message to the Congress from the President of the United States dated June 21, 1982, is hereby approved by the Congress as a governing international fishery agreement for the purposes of such Act of 1976.

Each such governing international fishery agreement shall enter into force and effect with respect to the United States on July 1, 1982.”.

16 USC 1823  
note.

(b) Notwithstanding any provision of the Act entitled “An Act for the conservation and management of the fisheries, and for other purposes”, dated April 13, 1976 (16 U.S.C. 1801 et seq.), the governing international fishery agreements referred to in section 2(a) (9) and (10) of the Fishery Conservation Zone Transition Act shall be extended, and shall be in force and effect with respect to the United States, for the period of time ending on—

16 USC 1823  
note.

(1) the deadline for completion of Congressional review, pursuant to section 203(a) of such 1976 Act, of any new governing international fishery agreement signed, on or before July 31, 1982, by the United States and the respective foreign government that is a party to the agreement in question; or

16 USC 1823.

(2) July 31, 1982, if the United States and the respective foreign government that is a party to the agreement in question fail to sign a new governing international fishery agreement on or before that date.

Approved June 30, 1982.

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**LEGISLATIVE HISTORY H.R. 3816:**

HOUSE REPORT No. 97-354 (Comm. on Merchant Marine and Fisheries).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): June 23, considered and passed Senate, amended.

June 24, House concurred in Senate amendments with an amendment.

June 29, Senate concurred in House amendments.



Public Law 97-213  
97th Congress

An Act

June 30, 1982  
[H.R. 4903]

Granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail transit service between the two States.

Mississippi-  
Louisiana  
Rapid Rail  
Transit  
Compact.  
Congressional  
consent.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress consents to the compact entered into between the States of Mississippi and Louisiana establishing a commission to study the feasibility of providing rapid rail transit service between the two States, which compact was approved on April 23, 1981, by the State of Mississippi, and was approved on July 15, 1980, and approved as amended on July 7, 1981, by the State of Louisiana. Such compact is as follows:

“MISSISSIPPI-LOUISIANA RAPID RAIL TRANSIT COMPACT

“ARTICLE I

“The purpose of this compact is to study the feasibility of rapid rail transit service between the States of Mississippi and Louisiana and to establish a joint interstate commission to assist in this effort.

“ARTICLE II

Ratification.

“This compact shall become effective immediately as to the States ratifying it whenever the States of Louisiana and Mississippi have ratified it and Congress has given consent thereto. Any State not mentioned in this article which is contiguous with any member State may become a party to this compact, subject to approval by the legislature of each of the member States.

“ARTICLE III

Mississippi-  
Louisiana Rapid  
Rail Transit  
Commission.  
Establishment.  
Membership.

“The States which are parties to this compact (hereinafter referred to as ‘party States’) do hereby establish and create a joint agency which shall be known as the Mississippi-Louisiana Rapid Rail Transit Commission (hereinafter referred to as the ‘commission’). The membership of such commission shall consist of the Governor of each party State, one representative each from the Mississippi Energy and Transportation Board, or its successor, and the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor, and five other citizens of each party State to be appointed by the Governor thereof. The appointive members of the commission shall serve for terms of four years each. Vacancies on the commission shall be filled by appointment by the Governor for the unexpired portion of the term. The members of the commission shall not be compensated for service on the commission, but each of the appointed members shall be entitled to actual and reasonable

Vacancies.

Expenses.

expenses incurred in attending meetings or incurred otherwise in the performance of his duties as a member of the commission. The members of the commission shall hold regular quarterly meetings and such special meetings as its business may require. They shall choose annually a chairman and vice chairman from among their members, and the chairmanship shall rotate each year among the party States in order of their acceptance of this compact. The commission shall adopt rules and regulations for the transaction of its business and a record shall be kept of all its business. It shall be the duty of the commission to study the feasibility of providing interstate rapid rail transit service between the party States. Toward this end, the commission shall have power to hold hearings; to conduct studies and surveys of all problems, benefits, and other matters associated with such service, and to make reports thereon; to acquire, by gift, grant, or otherwise, from local, State, Federal, or private sources such money or property as may be provided for the proper performance of their function, and to hold and dispose of same; to cooperate with other public or private groups, whether local, State, regional, or national, having an interest in such service; to formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties and to carry out the purposes of this compact.

Hearings.

#### “ARTICLE IV

“Each party State agrees that its legislature may, in its discretion, from time to time make available and pay over to the commission funds for the establishment and operation of the commission. The contribution of each party State shall be in equal amounts, if possible, but nothing in this article shall be construed as binding the legislature of either State to make an appropriation of a set amount of funds at any particular time.

Funds.

#### “ARTICLE V

“Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any party State, or to repeal or prevent legislation, or to affect any existing or future cooperative arrangement or relationship between any Federal agency and a party State.

#### “ARTICLE VI

“(1) This compact shall continue in force and remain binding upon each party State until the legislature or Governor of each or either State takes action to withdraw therefrom. However, any such withdrawal shall not become effective until six months after the date of the action taken by the legislature or Governor. Notice of such action shall be given to the other party State or States by the Secretary of State of the party State which takes such action.

Withdrawal.

“(2) There is hereby granted to the Governor, to the members of the commission for Louisiana, and to the compact administrator all the powers provided for in this compact and in this section. All officers of the State of Mississippi/Louisiana are hereby authorized and directed to do all things falling within their respective jurisdic-

Powers.

tions which are necessary or incidental to carrying out the purpose of the compact.”.

SEC. 2. Nothing contained in the compact described in the first section of this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in or over the region which forms the subject of the compact.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

Approved June 30, 1982.

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LEGISLATIVE HISTORY—H.R. 4903:

HOUSE REPORT No. 97-584 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

June 7, considered and passed House.  
June 24, considered and passed Senate.

Public Law 97-214  
97th Congress

An Act

To amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.

July 12, 1982

[H.R. 6451]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military Construction Codification Act.  
10 USC 2801  
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Military Construction Codification Act".

ENACTMENT OF MILITARY CONSTRUCTION CHAPTER IN TITLE 10 AND  
TRANSFER OF RELATED PROVISIONS INTO THAT CHAPTER

SEC. 2. (a) Title 10, United States Code, is amended by adding at the end of subtitle A the following new chapter:

**"CHAPTER 169—MILITARY CONSTRUCTION AND  
MILITARY FAMILY HOUSING**

Subchapter	Sec.
"I. Military Construction.....	2801
"II. Military Family Housing.....	2821
"III. Administration of Military Construction and Military Family Housing.	2851

**"SUBCHAPTER I—MILITARY CONSTRUCTION**

"Sec.	
"2801. Scope of chapter; definitions.	
"2802. Military construction projects.	
"2803. Emergency construction.	
"2804. Contingency construction.	
"2805. Unspecified minor construction.	
"2806. Contributions for North Atlantic Treaty Organization Infrastructure.	
"2807. Architectural and engineering services and construction design.	
"2808. Construction authority in the event of a declaration of war or national emergency.	

**"§ 2801. Scope of chapter; definitions**

"(a) The term 'military construction' as used in this chapter or any other provision of law includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation.

"(b) A military construction project includes all military construction work, or any contribution authorized by this chapter, necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility (or to produce such portion of a complete and usable facility or improvement as is specifically authorized by law).

"(c) In this chapter:

“(1) ‘Facility’ means a building, structure, or other improvement to real property.

“(2) ‘Military installation’ means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense.

“(3) ‘Secretary concerned’ includes the Secretary of Defense with respect to matters concerning the defense agencies.

“(4) ‘Appropriate committees of Congress’ means the Committees on Armed Services and on Appropriations of the Senate and House of Representatives.

“(d) This chapter does not apply to the Coast Guard or to civil works projects of the Army Corps of Engineers.

#### “§ 2802. Military construction projects

“(a) The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects as are authorized by law.

“(b) Authority provided by law to carry out a military construction project includes authority for—

“(1) surveys and site preparation;

“(2) acquisition, conversion, rehabilitation, and installation of facilities;

“(3) acquisition and installation of equipment and appurtenances integral to the project;

“(4) acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and

“(5) planning, supervision, administration, and overhead incident to the project.

#### “§ 2803. Emergency construction

“(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security.

“(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees, or after each such committee has approved the project, if the committees approve the project before the end of that period.

“(c)(1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is \$30,000,000.

“(2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

Report to congressional committees.

**“§ 2804. Contingency construction**

“(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

“(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, and (2) the justification for carrying out the project under this section. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees, or after each such committee has approved the project, if the committees approve the project before the end of that period.

Report to congressional committees.

**“§ 2805. Unspecified minor construction**

“(a) Within the amount authorized by law for such purpose, the Secretary concerned may carry out minor military construction projects not otherwise authorized by law. A minor military construction project is a military construction project (1) that is for a single undertaking at a military installation, and (2) that has an approved cost equal to or less than the amount specified by law as the maximum amount for a minor military construction project.

“(b)(1) A minor military construction project costing more than 50 percent of the amount specified by law as the maximum amount for a minor military construction project may not be carried out under this section unless approved in advance by the Secretary concerned.

“(2) When a decision is made to carry out a minor military construction project to which paragraph (1) is applicable, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only (A) after the end of the 21-day period beginning on the date the notification is received by the committees, or (B) after each such committee approves the project, if the committees approve the project before the end of that period.

Notification to congressional committees.

“(3) A project for the relocation of any activity from one installation to another that involves 25 or more full-time civilian employees of the Department of Defense but that is not subject to paragraph (1) may not be carried out under the authority of this section until the appropriate committees of Congress have been notified by the Secretary concerned of the intent to carry out such relocation under the authority of this section.

“(c) Only funds authorized for minor construction projects may be used to accomplish unspecified minor construction projects, except that the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified military construction project costing not more than 20 percent of the amount specified by law as the maximum amount for a minor military construction project.

“(d) Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

**“§ 2806. Contributions for North Atlantic Treaty Organization infrastructure**

“(a) Within amounts authorized by law for such purpose, the Secretary of Defense may make contributions for the United States share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

“(b) Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization Infrastructure program in any year unless such funds have been authorized by law for such program.

“(c)(1) The Secretary may make contributions in excess of the amount appropriated for contribution under subsection (a) if the amount of the contribution in excess of that amount does not exceed 200 percent of the amount specified by law as the maximum amount for a minor military construction project.

“(2) If the Secretary determines that the amount appropriated for contribution under subsection (a) in any fiscal year must be exceeded by more than the amount authorized under paragraph (1), the Secretary may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated (A) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and (B) after either a period of 21 days has elapsed from the date of receipt of the report or after each such committee has indicated approval of the increased contribution.

**“§ 2807. Architectural and engineering services and construction design**

“(a) Within amounts appropriated for such purposes, the Secretary concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects not otherwise authorized by law. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the armed forces of the United States are the primary user.

“(b) In the case of architectural and engineering services and construction design to be undertaken under subsection (a) for which the estimated cost exceeds the maximum amount specified by law for the purposes of this section, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of funds for such services.

“(c) If the Secretary concerned determines that the amount authorized for activities under subsection (a) in any fiscal year must be increased the Secretary may proceed with activities at such higher level (1) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of funds to be used for the increase, and (2) after either a period of 21

Report to congressional committees.

Notification to congressional committees.

Report to congressional committees.

days has elapsed from the date of receipt of the report or after each such committee has indicated approval of the increased level of activity.

**“§ 2808. Construction authority in the event of a declaration of war or national emergency**

“(a) In the event of a declaration of war or the declaration by the President of a national emergency in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) that requires use of the armed forces, the Secretary of Defense, without regard to any other provision of law, may undertake military construction projects, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces. Such projects may be undertaken only within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated.

“(b) When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify the appropriate committees of Congress of the decision and of the estimated cost of the construction projects, including the cost of any real estate action pertaining to those construction projects.

“(c) The authority described in subsection (a) shall terminate with respect to any war or national emergency at the end of the war or national emergency.

Notification to congressional committees.

Termination.

**“SUBCHAPTER II—MILITARY FAMILY HOUSING**

“Sec.

“2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.

“2822. Requirement for authorization of number of family housing units.

“2823. Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing.

“2824. Authorization for acquisition of existing family housing in lieu of construction.

“2825. Improvements to family housing units.

“2826. Limitations on space by pay grade.

“2827. Relocation of military family housing units.

“2828. Leasing of military family housing.

“2829. Multi-year contracts for supplies and services.

“2830. Occupancy of substandard family housing units.

“2831. Military family housing management account.

“2832. Homeowners assistance program.

**“§ 2821. Requirement for authorization of appropriations for construction and acquisition of military family housing**

“(a) Except as provided in subsection (b), funds may not be appropriated for the construction, acquisition, leasing, addition, extension, expansion, alteration, relocation, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by law.

“(b) In addition to the funds authorized to be appropriated by law in any fiscal year for the purposes described in subsection (a), there are authorized to be appropriated such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds appropriated for the purposes described in such paragraph.

Additional authorization.



“(c) Amounts authorized by law for construction of military family housing units include amounts for (1) site preparation (including demolition), (2) installation of utilities, (3) ancillary supporting facilities, (4) shades, screens, ranges, refrigerators, and all other equipment and fixtures installed in such units, and (5) construction supervision, inspection, and overhead.

**“§ 2822. Requirement for authorization of number of family housing units**

“(a) Except as otherwise provided in subsection (b) or as otherwise authorized by law, the Secretary concerned may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law.

“(b) Subsection (a) does not apply to the following:

“(1) Housing units acquired under section 404 of the Housing Amendments of 1955 (42 U.S.C. 1594a).

“(2) Housing units leased under section 2828 of this title.

“(3) Housing units acquired under the Homeowners Assistance Program referred to in section 2833 of this title.

**“§ 2823. Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing**

“(a) Before entering into a contract for the construction of family housing units authorized by law to be constructed at a location within the United States, the Secretary concerned shall consult in writing with the Secretary of Housing and Urban Development as to the availability of suitable alternative housing at such location. The Secretary of Housing and Urban Development shall advise the Secretary concerned in writing as to the availability of such housing. If the Secretary of Housing and Urban Development does not advise the Secretary concerned as to the availability of such housing within 21 days of the date on which the request for such advice is made, the Secretary concerned may enter into a contract for the proposed construction.

“(b) If the Secretary concerned and the Secretary of Housing and Urban Development disagree with respect to the availability of suitable alternative housing at any location, the Secretary concerned shall notify the appropriate committees of Congress, in writing, of the disagreement, of the Secretary’s decision to proceed with the construction, and of the justification for proceeding with the construction. A contract for construction of family housing units at such location may not then be entered into until the end of the 21-day period beginning on the date such committees receive the notification.

“(c) If the Secretary concerned and the Secretary of Housing and Urban Development agree that suitable alternative housing is available at a location at which military family housing units are authorized to be constructed, the Secretary may not proceed with such construction.

“(d) The Secretary of Defense shall prescribe regulations to define what constitutes suitable alternative housing for the purposes of this section.

*Post*, p. 161.

Notification to congressional committees.

Regulations.

**“§ 2824. Authorization for acquisition of existing family housing in lieu of construction**

“(a) In lieu of constructing any family housing units authorized by law to be constructed, the Secretary concerned may acquire sole interest in existing family housing units that are privately owned or that are held by the Department of Housing and Urban Development, except that in foreign countries the Secretary concerned may acquire less than sole interest in existing family housing units.

“(b) When authority provided by law to construct military family housing units is used to acquire existing family housing units under subsection (a), the authority includes authority to acquire interests in land.

Land interests.

“(c) The net floor area of a family housing unit acquired under the authority of this section may not exceed the applicable limitation specified in section 2826 of this title.

*Infra.*

“(d) Family housing units may not be acquired under this section through the exercise of eminent domain authority.

**“§ 2825. Improvements to family housing units**

“(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

“(2) In this section, ‘improvement’ includes rehabilitation of a housing unit and maintenance or repair work to be accomplished concurrently with an improvement project.

“Improvement.”

“(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed an amount specified by law for such purpose multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award.

Limitations.

“(2) In determining the applicability of the limitation contained in paragraph (1), there shall be included as part of the cost of the improvement the cost of repairs undertaken in connection with the improvement and any cost in connection with (A) the furnishing of electricity, gas, water and sewage disposal, (B) the construction or repair of roads and walks, and (C) grading and drainage work.

“(c) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

**“§ 2826. Limitations on space by pay grade**

“(a) In the construction, acquisition, and improvement of military family housing units, the following are the space limitations for the applicable numbers of bedrooms permitted for each pay grade:

Pay grade	Number of bedrooms	Net floor area (square feet)
0-7 and above .....	4	2,100
0-6 .....	4	1,700
0-4 and 0-5 .....	4	1,550
	3	1,400
0-1 through 0-3; W-1 through W-4; and E-7 through E-9 .....	5	1,550

Pay grade	Number of bedrooms	Net floor area (square feet)
	4	1,450
	3	1,350
	2	950
E-1 through E-6 .....	5	1,550
	4	1,350
	3	1,200
	2	950

“(b) The applicable maximum net floor area prescribed by subsection (a) may be increased by 10 percent for the housing unit of an officer holding a special command position (as designated by the Secretary of Defense), for the housing unit of the commanding officer of a military installation, and for the senior noncommissioned officer of a military installation.

“(c) The maximum net floor area prescribed by subsection (a) may be increased in any case by 5 percent if the Secretary concerned determines that the increase is in the best interest of the Government (1) to permit award of a turnkey construction contract to the contractor offering the most satisfactory proposal, or (2) to permit purchase, lease, or conversion of housing units. An increase in the maximum net floor area of a housing unit under subsection (b) when combined with an increase in the maximum net floor area of such unit under this subsection may not exceed 10 percent of the otherwise applicable limitation prescribed by subsection (a).

Waiver.

“(d)(1) The Secretary concerned may waive the provisions of subsection (a) with respect to a family housing unit leased in a foreign country if a suitable family housing unit within the applicable maximum net floor area prescribed by such subsection cannot be obtained.

“(2) Subsection (a) does not apply to family housing units in foreign countries constructed or acquired by the Secretary of State for occupancy by members of the armed forces.

Civilian personnel.

“(e) The maximum net floor areas prescribed by this section apply to family housing provided to civilian personnel based upon civilian pay scale comparability with military pay grades, as determined by the Secretary of Defense.

“Net floor area.”

“(f) In this section, ‘net floor area’ means the total number of square feet of the floor space inside the exterior walls of a structure, excluding the floor area of an unfinished basement, an unfinished attic, a utility space, a garage, a carport, an open or insect-screened porch, a stairwell, and any space used for a solar-energy system.

“§ 2827. Relocation of military family housing units

“(a) Subject to subsection (b), the Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a housing shortage.

Notification to congressional committees.

“(b) A contract to carry out a relocation of military family housing units under subsection (a) may not be awarded until (1) the Secretary concerned has notified the appropriate committees of Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and

(2) a period of 21 days has elapsed after the notification has been received by those committees.

**“§ 2828. Leasing of military family housing**

“(a)(1) Subject to paragraph (2), the Secretary of the military department concerned may lease housing facilities at or near a military installation in the United States, Puerto Rico, or Guam for assignment, without rental charge, as family housing to members of the Armed Forces and for assignment, with fair market rental charge, as family housing to civilian employees of the Department of Defense stationed at such installation.

“(2) A lease may only be made under paragraph (1) if the Secretary concerned finds that there is a shortage of adequate housing at or near such military installation and that—

Conditions.

“(A) the requirement for such housing is temporary;

“(B) leasing would be more cost effective than construction or acquisition of new housing;

“(C) family housing is required for personnel attending service school academic courses on permanent change of station orders;

“(D) construction of family housing at such installation has been authorized by law but is not yet completed; or

“(E) a military construction authorization bill pending in Congress includes a request for authorization of construction of family housing at such installation.

“(b)(1) Not more than 10,000 family housing units may be leased at any one time under subsection (a).

“(2) Except as provided in paragraph (3), expenditures for the rental of housing units under subsection (a) (including the cost of utilities, maintenance, and operation) may not exceed the amount specified by law as the maximum annual domestic family housing unit lease amount.

“(3) Not more than 500 housing units may be leased under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum annual domestic family housing unit lease amount but does not exceed 120 percent of that amount.

“(c) The Secretary concerned may lease housing facilities in foreign countries for assignment, without rental charge, as family housing to members of the Armed Forces and for assignment, with or without rental charge, as family housing to civilian employees of the Department of Defense—

Foreign housing facilities; conditions.

“(1) under circumstances specified in clause (A), (B), (D), or (E) of subsection (a)(2);

“(2) for incumbents of special command positions (as determined by the Secretary of Defense);

“(3) in countries where excessive costs of housing or other lease terms would cause undue hardship on Department of Defense personnel; and

“(4) in countries that prohibit leases by individual military or civilian personnel of the United States.

“(d) Leases of housing units in foreign countries under subsection (c) for assignment as family housing may be for any period not in excess of ten years, and the costs of such leases for any year may be paid out of annual appropriations for that year.

Leasing period, limitation.

“(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and oper-

Maximum lease amount.

Waiver.

ation) may not exceed the amount specified by law as the maximum annual foreign family housing unit lease amount. That maximum lease amount may be waived by Secretary concerned with respect to not more than a total of 200 such units that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

"(2) The maximum number of family housing units that may be leased in foreign countries under this section at any one time shall be specified by law.

Notification to congressional committees.

"(f) A lease for family housing facilities, or for real property related to family housing facilities, in a foreign country for which the average estimated annual rental during the term of the lease exceeds the amount specified by law for such purpose may not be made under this section until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed lease, and (2) a period of 21 days elapses after the notification is received by those committees.

#### "§ 2829. Multi-year contracts for supplies and services

"The Secretary concerned may make contracts for periods of up to four years for supplies and services for the management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year out of annual appropriations for that year.

#### "§ 2830. Occupancy of substandard family housing units

"(a)(1) A member of the uniformed services with dependents may, without loss of the member's basic allowance for quarters, occupy a substandard family housing unit under the jurisdiction of the Secretary of a military department.

"(2) Occupancy of a family housing unit under paragraph (1) shall be subject to a charge against the member's basic allowance for quarters in the amount of the fair rental value of the housing unit. However, such a charge may not be made in an amount in excess of 75 percent of the amount of such allowance.

"(b) Subject to regulations prescribed by the Secretary of Defense, the Secretary of a military department may lease substandard family housing units to members of any of the uniformed services for occupancy by such members.

"Uniformed services."

"(c) In this section, 'uniformed services' means the armed forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

#### "§ 2831. Military family housing management account

"(a) There is on the books of the Treasury an account known as the Department of Defense Military Family Housing Management Account (hereinafter in this section referred to as the 'account'). The account shall be used for the management and administration of funds appropriated or otherwise made available to the Department of Defense for military family housing programs.

Transfer of funds.

"(b) The account shall be administered as a single account. There shall be transferred into the account—

"(1) appropriations made for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operation and

maintenance, and disposal of military family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) of the National Housing Act (12 U.S.C. 1715m(c));

“(2) proceeds from the rental of family housing and mobile home facilities under the control of a military department, reimbursements from the occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the account; and

“(3) proceeds of the handling and the disposal of family housing of a military department (including related land and improvements), whether carried out by a military department or any other Federal agency, but less those expenses payable pursuant to section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)).

“(c) Amounts in the account shall remain available until spent.

“(d) The Secretary concerned may make obligations against the account, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b).

#### “§ 2832. Homeowners assistance program

“The Secretary of Defense may exercise the authority provided in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

### “SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

“Sec.

“2851. Supervision of military construction projects.

“2852. Military construction projects: waiver of certain restrictions.

“2853. Authorized cost variations.

“2854. Restoration or replacement of damaged or destroyed facilities.

“2855. Law applicable to contracts for architectural and engineering services and construction design.

“2856. Limitations on barracks space by pay grade.

“2857. Use of solar energy systems.

“2858. Limitation on the use of funds for expediting a construction project.

“2859. Transmission of annual military construction authorization request.

“2860. Availability of appropriations for five years.

“2861. Annual report to Congress.

#### “§ 2851. Supervision of military construction projects

“(a) Each contract entered into by the United States in connection with a military construction project or a military family housing project shall be carried out under the direction and supervision of the Secretary of the Army (acting through the Chief of Engineers), the Secretary of the Navy (acting through the Commander of the Naval Facilities Engineering Command), or such other department or Government agency as the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective completion of the project.

“(b) A military construction project for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense shall be accomplished by or through a military department designated by the Secretary of Defense.

**“§ 2852. Military construction projects: waiver of certain restrictions**

“(a) The Secretary of Defense and the Secretaries of the military departments may carry out authorized military construction projects and authorized military family housing projects without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

“(b) Authority to carry out a military construction project or a military family housing project on land not owned by the United States may be exercised (1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and (2) even though the land is held temporarily.

**“§ 2853. Authorized cost variations**

“(a)(1) Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the amount specified by law as the maximum amount for a minor military construction project) may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

“(2) A military construction project (other than a project for which the approved amount is less than the amount specified by law as the maximum amount for a minor military construction project) may not be placed under contract if, based upon bids received—

“(A) the scope of work for the project, as approved by Congress, is proposed to be reduced by more than 25 percent; or

“(B) the current working estimate of the cost of the project exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser,

until subsection (d) is complied with.

“(b) If the amount approved for a project is less than the amount specified by law as the maximum amount for a minor military construction project, that approved amount may be increased to more than such maximum amount if the Secretary concerned determines (1) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (2) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved. However, if, based upon bids received, the current working estimate of the cost of such a project is more than such maximum amount and is more than 125 percent of the original approved amount for the project, the project may not be placed under contract until subsection (d) is complied with.

"(c) The amount authorized by law for the cost of authorized construction and acquisition of a military family housing project may be increased above the amount appropriated for such project if the Secretary determines (1) that the increase is required for the sole purpose of meeting unforeseen variations in cost, and (2) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress. However, such amount may not be increased by more than 25 percent until subsection (d) is complied with.

"(d) The limitation on reduction in scope of work in subsection (a), and the limitations on cost increases in subsections (a), (b), and (c), do not apply if—

"(1) the reduction in scope of work or the increase in cost, as the case may be, is approved by the Secretary concerned;

"(2) a written notification of the facts relating to the proposed reduced scope of work or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the appropriate committees of Congress; and

"(3) either 21 days have elapsed from the date of the submission of the notification under clause (2) or each of the appropriate committees of Congress has indicated approval of the proposed reduced scope of work or increased cost.

"(e) After a contract for a project has been entered into, the Secretary concerned may carry out such project in an amount above the amount appropriated for such project by Congress in order to meet the costs of change orders or contractor claims. In the case of a contract to be carried out above the amount appropriated for which there has not been a cost variation under subsection (a), (b), (c), or (d), the Secretary concerned shall promptly report to the appropriate committees of Congress on the revised cost for the project and the reasons for the revised cost if the total cost under the contract exceeds the amount appropriated for the project by more than 25 percent. In the case of a contract to be carried out above the amount appropriated for which there has been a cost variation under subsection (a), (b), (c), or (d), the Secretary concerned shall promptly report to the appropriate committees of Congress on the revised cost for the project and the reasons for the revised cost, regardless of the amount by which the revised cost exceeds the amount approved for the project by the modification under subsection (a), (b), (c), or (d).

Reports to congressional committees.

#### **"§ 2854. Restoration or replacement of damaged or destroyed facilities**

"(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

"(b) When a decision is made to carry out construction under this section and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only (1) after the end of the 21-day period beginning on the date the notification is received by such committees, or (2) after each such committee has approved the project, if the committees approve the project before the end of that period.

Notification of congressional committees.



**“§ 2855. Law applicable to contracts for architectural and engineering services and construction design**

“Contracts for architectural and engineering services and construction design in connection with a military construction project or a military family housing project shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

**“§ 2856. Limitations on barracks space by pay grade**

Regulations.

“(a) The Secretary of Defense shall prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks construction. Such regulations shall be uniform for the armed forces under the jurisdiction of the Secretary of a military department.

Submittal to congressional committees.

“(b) Before taking effect, any regulations under this section, and any modifications to such regulations, shall be submitted to the appropriate committees of Congress. Such regulations (including any modifications to such regulations) may not then take effect until 21 days after being received by such committees.

**“§ 2857. Use of solar energy systems**

“(a) The Secretary of Defense shall encourage the use of solar energy systems as a source of energy for military construction projects (including military family housing projects) where use of solar energy would be practical and economically feasible.

“(b)(1) The Secretary concerned shall require that the design of all new facilities (including family housing) shall include consideration of solar energy systems in those cases in which use of solar energy has the potential for significant savings of fossil-fuel-derived energy.

“(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that solar energy systems be installed if such systems can be shown to be cost effective.

“(c)(1) For the purposes of this section, a solar energy system for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with a solar energy system, and (B) the original investment cost of the energy system for the facility without a solar energy system can be recovered over the expected life of the facility.

“(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a facility shall be made using accepted life-cycle costing procedures and shall include—

“(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system with and without a solar energy system over the expected life of the facility or during a period of 25 years, whichever is shorter;

“(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

“(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

“(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the solar energy system shall be reduced by 10 percent to reflect an allowance for an investment cost credit.

“(d) In order to equip a military construction project (including a military family housing project) with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this subsection shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

**“§ 2858. Limitation on the use of funds for expediting a construction project**

“Funds appropriated for military construction (including military family housing) may not be expended for additional costs involved in expediting a construction project unless the Secretary concerned (1) certifies that expenditures for such costs are necessary to protect the national interest, and (2) establishes a reasonable completion date for the project. In establishing such a completion date, the Secretary shall take into consideration the urgency of the requirement for completion of the project, the type and location of the project, the climatic and seasonal conditions affecting the construction involved, and the application of economical construction practices.

**“§ 2859. Transmission of annual military construction authorization request**

“The Secretary of Defense shall transmit to Congress the annual request for military construction authorization for a fiscal year during the first 10 days after the President transmits to Congress the Budget for that fiscal year pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).

**“§ 2860. Availability of appropriations for five years**

“(a) Subject to the provisions of appropriation Acts and except as otherwise provided under subsection (b), any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

“(b) Should a requirement develop to obligate funds for a military construction project after the end of the fourth fiscal year after the fiscal year for which such funds were appropriated, such obligation may be made after the end of the 21-day period beginning on the date on which the appropriate committees of Congress receive notification of the need for such obligation and the reasons therefor.

Notification to congressional committees.

**“§ 2861. Annual report to Congress**

“(a) The Secretary of Defense shall submit a report to the appropriate committees of Congress each year with respect to military construction activities and military family housing activities. Each such report shall be submitted at the same time that the annual request for military construction authorization is submitted for that

year. Except where otherwise provided in this section, information required by this section to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

“(b) Each report under subsection (a) shall include the following:

“(1) A statement of the construction status and a fiscal summary of the military construction projects undertaken under, and the amounts authorized and appropriated for, contingency construction under section 2804 of this title.

*Ante*, p. 155.

“(2) Information to enable the committees to evaluate the relationships between budget requests for appropriations for unspecified minor construction projects under section 2805 of this title and obligations of appropriated funds for projects under such section. Such information shall include comparisons of budget requests and obligations using military construction appropriations and using operations and maintenance appropriations, maintenance and repair backlog, and obligations for maintenance and repair.

“(3) Information to enable the committees to monitor trends in construction started using funds contributed by the United States under section 2806 of this title to the North Atlantic Treaty Organization Infrastructure program and the status of recoupments under that program.

*Ante*, p. 156.

“(4) Information to enable the committees to evaluate trends in contracting for architect and engineering services and construction design, and trends in accomplishing design of construction projects by Government employees, under the authority of section 2807 of this title.

*Ante*, p. 156.

“(5) Information to enable the committees to evaluate trends in supervision, inspection, and overhead costs for the dollar amount of military construction accomplished during a fiscal year by a military construction department or agency under the authority of section 2851 of this title.

*Ante*, p. 163.

“(6) A summary of military construction projects (other than a military construction project for an amount less than the amount specified by law as the maximum amount for a minor military construction project) placed under contract during the preceding fiscal year with respect to which a cost variation or scope reduction report was supplied to the appropriate committees of Congress under section 2853 of this title. There shall also be included an analysis to indicate whether the cost variation was the result of a lack of competition, quality of plans and specifications, or quality of budget estimates, or of other factors.

*Ante*, p. 164.

“(7) Information to enable the committees to evaluate the use of the authority provided under section 2858 to expedite a military construction project when such expediting is required to protect the national interest.

*Ante*, p. 167.

“(8) Information in sufficient detail to enable the committees to monitor trends in design, construction, performance goals, and progress.

“(9) With respect to each contract awarded during the preceding fiscal year on other than a competitive basis to the lowest responsible bidder, the name of the contractor, the original amount of the contract, and the reason for the award of the contract on other than a competitive basis.”.

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by adding at the end thereof the following:

"169. Military Construction and Military Family Housing..... 2801".

#### AMENDMENTS RELATING TO FACILITIES FOR RESERVE COMPONENTS

SEC. 3. (a) Subsection (f) of section 2233 of title 10, United States Code, is amended to read as follows:

"(f)(1) Authority provided by law to construct, expand, rehabilitate, convert, or equip any facility under this section includes authority to expend funds for surveys, administration, overhead, planning, and supervision incident to any such activity.

"(2) Authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase, gift, exchange of Government-owned land, or otherwise."

Real property,  
acquisition.

(b)(1) Chapter 133 of such title is amended by adding at the end thereof the following new section:

#### "§ 2239. Waiver of certain restrictions

"(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 2233 of this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(b) Authority provided by law to place permanent or temporary improvements on lands under section 2233 of this title may be exercised (1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and (2) even though the land is held temporarily."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2239. Waiver of certain restrictions."

(c)(1) Section 2233a of such title is amended to read as follows:

#### "§ 2233a. Limitation on certain projects; authority to carry out small projects with operation and maintenance funds

"(a)(1) Except as provided in paragraph (2), an expenditure or contribution in an amount in excess of \$200,000 may not be made under section 2233 of this title for any facility until the Secretary of Defense has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the location, nature, and estimated cost of the facility and a period of 21 days has passed after receipt of such notification.

Notification to  
congressional  
committees.  
10 USC 2233.

"(2) Paragraph (1) does not apply to expenditures or contributions for the following:

"(A) Facilities acquired by lease.

"(B) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

"(i) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

"(ii) the current working estimate of the cost of the project does not exceed the amount approved for the project

by more than (I) 25 percent, or (II) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser.

10 USC 2233.

“(b) Under such regulations as the Secretary of Defense may prescribe, a project authorized under section 2233(a) of this title that costs \$50,000 or less may be carried out with funds available for operations and maintenance.”.

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

“2233a. Limitation on certain projects; authority to carry out small projects with operation and maintenance funds.”.

10 USC 2232.

(d)(1) Clause (1) of section 2232 of such title is amended to read as follows:

“State.”

“(1) ‘State’ means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States and includes political subdivisions and military units thereof and tax-supported agencies therein.”.

10 USC 2233,  
2236, 2237.

(2) Sections 2233(a)(2), 2233(a)(3), 2233(a)(4), 2233(a)(6), 2236(c), 2236(d), and 2237(b) of such title are amended by striking out “or Territory, Puerto Rico, or the District of Columbia”.

(3) Subsections (a) and (b) of section 2236 of such title are amended by striking out “or Territory, Puerto Rico, or the District of Columbia, whichever is concerned.”.

10 USC 2238.

(4) Section 2238 of such title is amended by striking out “or Territory” and all that follows and inserting in lieu thereof “or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.”.

(e)(1) Clause (5) of section 2233(a) of such title is amended to read as follows:

“(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter; and”.

(2) Section 2236(b) of such title is amended by inserting “or (5)” after “2233(a)(4)”.

#### REQUIREMENT FOR CERTAIN NEW ANNUAL AUTHORIZATIONS OF APPROPRIATIONS RELATING TO MILITARY CONSTRUCTION

SEC. 4. Section 138(f)(1) of title 10, United States Code, is amended by striking out “but excludes” and all that follows and inserting in lieu thereof the following: “; any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.”.

*Ante*, p. 156.  
10 USC 2231  
*et seq.*

*Ante*, pp. 157,  
165.

#### ACQUISITION OF REAL PROPERTY; COST VARIATIONS

SEC. 5. Section 2676 of title 10, United States Code, is amended—

- (1) by inserting “(a)” before “No military department”; and
- (2) by adding at the end the following:

“(b) Authority provided the Secretary of a military department by law to acquire an interest in real property (including a temporary interest) includes authority—

“(1) to make surveys; and

“(2) to acquire the interest in real property by gift, purchase, exchange of real property owned by the United States, or otherwise.

“(c)(1) Except as provided in paragraph (2), the cost authorized for a land acquisition project may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

Cost increase;  
limitation.

“(2) A land acquisition project may not be placed under contract if, based upon the agreed price for the land—

“(A) the scope of the acquisition, as approved by Congress, is proposed to be reduced by more than 25 percent; or

“(B) the agreed price for the land exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, until subsection (d) is complied with.

“(d) The limitations on reduction in scope or increase in cost of a land acquisition in subsection (c) do not apply if the reduction in scope or the increase in cost, as the case may be, is approved by the Secretary concerned and a written notification of the facts relating to the proposed reduced scope or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the appropriate committees of Congress. A contract for the acquisition may then be awarded only (1) after a period of 21 days elapses from the date the notification is received by the committees, or (2) upon the approval of those committees, if before the end of that period each such committee approves the proposed reduced scope or increased cost.”.

Notification of  
congressional  
committees.

#### CODIFICATION OF OTHER PERMANENT PROVISIONS OF LAW

SEC. 6. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

#### “§ 2394. Contracts for energy or fuel for military installations

“(a) Subject to subsection (c), the Secretary of a military department may enter into contracts for periods of up to 30 years—

“(1) under section 2689 of this title; and

“(2) for the provision and operation of energy production facilities on real property under the Secretary's jurisdiction or on private property and the purchase of energy produced from such facilities.

“(b) A contract may be made under subsection (a) only—

“(1) after the approval of the proposed contract by the Secretary of Defense; and

“(2) after the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have been

*Post*, p. 173.

Notification to  
congressional  
committees.

notified of the terms of the proposed contract, including the dollar amount of the contract and the amount of energy or fuel to be delivered to the Government under the contract.

"(d) The costs of contracts under this section for any year may be paid from annual appropriations for that year."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2394. Contracts for energy or fuel for military installations."

(b)(1) Chapter 153 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 2577. Disposal of recyclable materials**

Regulations.

"(a)(1) The Secretary of Defense shall prescribe regulations to provide for the sale of recyclable materials held by a military department or defense agency and for the operation of recycling programs at military installations. Such regulations shall include procedures for the designation by the Secretary of a military department (or by the Secretary of Defense with respect to facilities of a defense agency) of military installations that have established a qualifying recycling program for the purposes of subsection (b)(2).

"(2) Any sale of recyclable materials by the Secretary of Defense or Secretary of a military department shall be in accordance with the procedures in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(b)(i) Proceeds from the sale of recyclable materials at an installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover the costs of operations, maintenance, and overhead for processing recyclable materials at the installation (including the cost of any equipment purchased for recycling purposes).

Limitation.

"(2) If after such funds are credited a balance remains available to a military installation and such installation has a qualifying recycling program (as determined by the Secretary of the military department concerned or the Secretary of Defense), not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. A project may not be carried out under the preceding sentence for an amount greater than 50 percent of the amount established by law as the maximum amount for a minor construction project.

Transfer of funds.

"(3) The remaining balance available to a military installation may be transferred to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity.

"(c) If the balance available to a military installation under this section at the end of any fiscal year is in excess of \$2,000,000, the amount of that excess shall be covered into the Treasury as miscellaneous receipts."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2577. Disposal of recyclable materials."

(c)(1) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new sections:

**“§ 2689. Development of geothermal energy on military lands**

“The Secretary of a military department may develop, or authorize the development of, any geothermal energy resource within lands under the Secretary’s jurisdiction, including public lands, for the use or benefit of the Department of Defense if that development is in the public interest, as determined by the Secretary concerned, and will not deter commercial development and use of other portions of such resource if offered for leasing.

**“§ 2690. Restriction on fuel sources for new heating systems**

“(a) Except as provided in subsection (b), a new heating system that requires a heat input rate of fifty million British thermal units per hour or more and that uses oil or gas (or a derivative of oil or gas) as fuel may not be constructed on lands under the jurisdiction of a military department.

“(b) The Secretary of the military department concerned may waive the provisions of subsection (a) in rare and unusual cases, but such a waiver may not become effective until after the Secretary has notified the appropriate committees of Congress in writing of the waiver.

Waiver.

“(c) The Secretary of the military department concerned may not provide service for a new heating system in increments in order to avoid the prohibition contained in subsection (a).”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

“2689. Development of sources of energy on or for military installations.

“2690. Restriction on fuel sources for new heating systems.”.

**REPEALER**

**SEC. 7.** The following provisions of law are repealed:

(1) Sections 2212, 2661, 2673, 2674, 2678, 2681, 2684, 2686, 2688, 4774, and 9774 of title 10, United States Code.

(2) Section 504 of the Act entitled “An Act to authorize certain construction at military and naval installations, and for other purposes”, approved September 28, 1951 (31 U.S.C. 723).

(3) Sections 103 and 406(a) of the Act entitled “An Act to authorize certain construction at military installations, and for other purposes”, approved August 30, 1957 (42 U.S.C. 1594h and 1594i).

(4) Section 420 of the Military Construction Act of 1959 (Public Law 86-149; 73 Stat. 324).

7 USC 1704b.

(5) Sections 501, 503, and 507 of the Act entitled “An Act to authorize certain construction at military installations, and for other purposes”, approved July 27, 1962 (42 U.S.C. 1594a-1, 1594h-1, and 1594a-2).

(6) Section 507 of the Military Construction Authorization Act, 1964 (42 U.S.C. 1594k).

(7) Sections 610 and 611 of the Military Construction Authorization Act, 1966 (Public Law 89-188; 79 Stat. 818).

10 USC 1077  
note, 2662 note.

(8) Sections 610 and 612 of the Military Construction Authorization Act, 1967 (Public Law 89-568; 50 U.S.C. App. 2287; 31 U.S.C. 723a).

(9) Section 610(a) of the Military Construction Authorization Act, 1968 (42 U.S.C. 1594h-2).



(10) Section 807 of the Military Construction Authorization Act, 1969 (Public Law 90-408; 82 Stat. 392).

(11) Section 512 of the Military Construction Authorization Act, 1970 (Public Law 91-142; 83 Stat. 313).

(12) Section 508 of the Military Construction Authorization Act, 1971 (Public Law 91-511; 84 Stat. 1220).

(13) Section 508 of the Military Construction Authorization Act, 1973 (42 U.S.C. 1594j-1).

(14) Sections 509 and 612 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1759, 1765).

(15) Section 613 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 380).

30 USC 1002a  
note.

(16) Section 803 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 30 U.S.C. 1002a).

42 USC 1594h-3.

(17) Sections 505 and 808 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1765, 1778).

10 USC 140 note.

(18) Section 903 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1382).

#### AMENDMENTS TO SECTION OF TITLE 10 GOVERNING LEASES IN FOREIGN COUNTRIES

SEC. 8. (a) Subsection (a) of section 2675 of title 10, United States Code, is amended to read as follows:

“(a) The Secretary of a military department may acquire by lease in foreign countries structures and real property relating to structures that are needed for military purposes other than for military family housing. A lease under this section may be for a period of up to five years, and the rental for each yearly period may be paid from funds appropriated to that military department for that year.”.

(b) Subsection (b) of such section is amended—

- (1) by striking out “or any other provision of law”; and
- (2) by striking out “, family housing facilities.”.

(c) Subsections (c) and (d) of such section are repealed.

#### SAVINGS PROVISIONS

7 USC 1704c.

SEC. 9. (a) The Secretary of Defense shall pay to the Commodity Credit Corporation an amount not to exceed \$6,000,000 per year until the amount due for foreign currencies used for housing constructed or acquired under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721-1726) has been liquidated.

42 USC 1594k  
note.

(b) The Secretary of Defense may continue in effect any agreement guaranteeing rental returns to builders or other sponsors of family housing in foreign countries that was made under section 507 of the Military Construction Authorization Act, 1964 (42 U.S.C. 1594k), before the effective date of this Act and may exercise any option of the United States in any such agreement that has not been exercised before such date.

#### TECHNICAL AND CLERICAL AMENDMENTS

SEC. 10. (a)(1) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212.

*Ante*, p. 173.

(2) Section 2233(e) of such title is amended by striking out “advance planning, construction design, and architectural services” and inserting in lieu thereof “architectural and engineering services and construction design”. 10 USC 2233.

(3) Section 2388(c) of title 10, United States Code, is amended by striking out “section 4774(d) or 9774(d) of this title, section 529 of title 31, or section 259 or 267 of title 40,” and inserting in lieu thereof “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

(4) The table of sections at the beginning of chapter 159 of such title is amended by striking out the items relating to sections 2661, 2673, 2674, 2678, 2681, 2684, 2686, and 2688. Ante, p. 173.

(5)(A) Section 2677 of such title is amended by striking out “per centum” in subsection (b) and inserting in lieu thereof “percent”. 10 USC 2677.

(B) The heading of such section is amended to read as follows:

**“§ 2677. Options: property required for military construction projects”**

(C) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

“2677. Options: property required for military construction projects.”

(6) Section 2775(c) of such title is amended by striking out “family” and all that follows through “1594a-1)” and inserting in lieu thereof “Military Family Housing Management Account provided for in section 2831 of this title”. 10 USC 2775. Ante, p. 162.

(7) Section 2682 of such title is amended by striking out “construction” and all that follows through “extension” and inserting in lieu thereof “maintenance and repair”. 10 USC 2682.

(8) Section 2687(d)(1) of such title is amended by striking out the matter preceding clause (A) and inserting in lieu thereof the following: 10 USC 2687.

“(1) ‘Military installation’ means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department—”. “Military installation.”

(9)(A) The table of sections at the beginning of chapter 449 of such title is amended by striking out the item relating to section 4774. Ante, p. 173.

(B) The table of sections at the beginning of chapter 949 of such title is amended by striking out the item relating to section 9774. Ante, p. 173.

(b)(1) Section 305(a) of the Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1592d(a)) is amended by striking out “sections 1136 and” and inserting in lieu thereof “section”.

(2) Section 402(7) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5042(7)) is amended by striking out “(without regard to the provisions of section 4774(d) of title 10, United States Code),”.

(3) Section 3 of the Act entitled “An Act to assist in the internal development of the Virgin Islands by the undertaking of useful projects therein, and for other purposes”, approved December 20, 1944 (48 U.S.C. 1409b), is amended—

(A) by striking out “secs. 1136, as amended, and” and inserting in lieu thereof “section”; and 58 Stat. 829, 48 USC 1409b and note.

(B) by striking out “sections 355, as amended, and 1136, as amended,” and inserting in lieu thereof “section 355”.

(4) The Act entitled “An Act to authorize the Secretary of the Air Force to establish land-based air warning and control installations for the national security, and for other purposes”, approved March 30, 1949 (50 U.S.C. 491), is amended by striking out “sections 1136, 63 Stat. 17, 50 USC 491 and note.”

3648, 3734, Revised Statutes” and inserting in lieu thereof “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

(5) Section 40 of the Act of August 10, 1956 (31 U.S.C. 649c), is amended by striking out “and the construction of public works”.

**INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE  
SPECIFIED BY LAW**

10 USC 2828  
note.

**SEC. 11.** During the period beginning on October 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or October 1, 1983, whichever is later, the following amounts apply:

*Ante*, p. 155.

(1) The maximum amount for an unspecified minor military construction project under section 2805 of title 10, United States Code, is \$1,000,000.

*Ante*, p. 156.

(2) The amount of a contract for architectural and engineering services or construction design that makes such a contract subject to the reporting requirement under section 2807 of title 10, United States Code, is \$300,000.

*Ante*, p. 159.

(3) The maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, is \$30,000.

*Ante*, p. 161.

(4) The maximum annual rental for a family housing unit leased in the United States, Puerto Rico, or Guam under section 2828(b) of title 10, United States Code, is \$6,000.

(5)(A) The maximum annual rental for a family housing unit leased in a foreign country under section 2828(c) of title 10, United States Code, is \$16,800.

(B) The maximum number of family housing units that may be leased at any one time in foreign countries under section 2828(c) of title 10, United States Code, is 29,000.

(6) The maximum rental per year for family housing facilities, or for real property related to family housing facilities, leased in a foreign country under section 2828(f) of title 10, United States Code, is \$250,000.

**EFFECTIVE DATE**

10 USC 2801  
note.

**SEC. 12.** (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1982, and shall apply to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date.

(b) The amendment made by section 4 shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1983. *Ante*, p. 170.

Approved July 12, 1982.

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**LEGISLATIVE HISTORY—H.R. 6451 (S. 2645):**

HOUSE REPORT No. 97-612 (Comm. on Armed Services).

SENATE REPORT No. 97-474 accompanying S. 2645 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 21, considered and passed House.

June 30, considered and passed Senate.

Public Law 97-215  
97th Congress

## An Act

July 13, 1982

[H.R. 6198]

Copyright law,  
amendment.

To amend the manufacturing clause of the copyright law.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601(a) of chapter 6 of title 17 of the United States Code is amended by striking out "1982" and inserting in lieu thereof "1986".*

WILLIAM H. NATCHER  
*Speaker Pro Tempore.*GEORGE BUSH  
*Vice President of the United States and  
President of the Senate.*IN THE HOUSE OF REPRESENTATIVES, U.S.,  
*July 13, 1982.*

The House of Representatives having proceeded to reconsider the bill (H.R. 6198) entitled "An Act to amend the manufacturing clause of the copyright law", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.  
*Clerk.**By W. Raymond Colley  
Deputy Clerk.*

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.  
*Clerk.**By Thomas E. Ladd  
Assistant to the Clerk.*IN THE SENATE OF THE UNITED STATES,  
*July 13 (legislative day, July 12), 1982.*

The Senate having proceeded to reconsider the bill (H.R. 6198) entitled "An Act to amend the manufacturing clause of the copyright law", returned by the President of the United States with his

objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved*, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

WILLIAM F. HILDENBRAND  
*Secretary.*

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LEGISLATIVE HISTORY—H.R. 6198 (S. 1880):

HOUSE REPORTS: No. 97-575, Pt. 1 (Comm. on the Judiciary) and Pt. 2, (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 14, 15, considered and passed House.

June 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 27 (1982):

July 8, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 13, House and Senate overrode veto.

Public Law 97-216  
97th Congress

An Act

July 18, 1982  
[H.R. 6685]

Making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Urgent  
Supplemental  
Appropriations  
Act, 1982.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Urgent Supplemental Appropriations Act, 1982") for the fiscal year ending September 30, 1982, and for other purposes, namely:

TITLE I

CHAPTER I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

(TRANSFER OF FUNDS)

For an additional amount for "Program administration", \$8,742,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for the Summer Youth Program under part C of title IV of the Comprehensive Employment and Training Act, \$45,000,000.

29 USC 942.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", \$4,259,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

**BUREAU OF LABOR STATISTICS****SALARIES AND EXPENSES****(TRANSFER OF FUNDS)**

For an additional amount for "Salaries and expenses", \$5,623,000 to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****HEALTH SERVICES ADMINISTRATION****HEALTH SERVICES**

For an additional amount for "Health Services", \$60,080,000, of which \$3,500,000 shall be used to provide twelve months of transitional funding for those University Affiliated Facilities previously funded under section 502(a) of the Social Security Act or predecessor legislation (title V of the Social Security Act as in effect prior to the enactment of the Maternal and Child Health Services Block Grant), but for which termination of such funding has been announced during fiscal year 1982.

42 USC 702.  
42 USC 701.

**HEALTH RESOURCES ADMINISTRATION****HEALTH RESOURCES**

For an additional amount for "Health Resources", \$1,000,000, which shall be available for nursing research grants.

**ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES****WORK INCENTIVES**

For an additional amount for "Work incentives", \$35,000,000.

**DEPARTMENTAL MANAGEMENT****OFFICE OF THE INSPECTOR GENERAL****(TRANSFER OF FUNDS)**

From amounts appropriated for fiscal year 1982 for payments to States for Medicaid Fraud Control Units, there is transferred to the Office of Inspector General, Department of Health and Human Services, for necessary expenses, \$13,941,000.

**SOCIAL SECURITY ADMINISTRATION****REFUGEE AND ENTRANT ASSISTANCE**

For an additional amount for "Refugee and Entrant assistance", \$20,000,000, to be available only to reimburse States which by reason of court order, State statute or regulation, or other administrative restraint could not implement the change in regulations



published on March 12, 1982, for refugee assistance and domestic assistance for Cuban and Haitian entrants.

## DEPARTMENT OF EDUCATION

### STUDENT LOAN INSURANCE

20 USC 1071.

For an additional amount under title IV, part B of the Higher Education Act, \$1,300,000,000, to remain available until expended.

### DEPARTMENTAL MANAGEMENT

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$5,650,000.

### RELATED AGENCIES

#### ACTION

#### OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", under the provisions of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113, as amended, 42 U.S.C. section 4951 et seq.), \$2,000,000.

### CORPORATION FOR PUBLIC BROADCASTING

#### PUBLIC BROADCASTING FUND

47 USC 609.

For an additional amount for payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1984, \$24,400,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, and similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

### PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$309,000.

## CHAPTER II

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## HOUSING PROGRAMS

## ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

## (RESCISSION)

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 and prior Appropriation Acts, \$94,382,000 of contract authority and \$4,098,640,000 of budget authority are rescinded: *Provided*, That any balances of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: *Provided further*, That \$190,860,000 of contract authority and \$4,098,685,000 of budget authority, shall be used for the public housing program, including \$18,960,000 of contract authority for assistance in financing the development or acquisition cost of low-income housing for Indian families, \$90,000,000 of contract authority for modernization of existing low-income housing projects, and \$1,263,005,000 of budget authority for new construction and substantial rehabilitation as authorized by section 5(c) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); and \$870,969,000 of contract authority and \$15,228,518,000 of budget authority shall be used for new construction and substantial rehabilitation and assistance to existing housing units, including amendments for units reserved in prior years, under the lower-income housing assistance program (section 8, United States Housing Act of 1937, as amended): *Provided further*, That of the foregoing amounts, \$152,715,200 of contract authority and \$3,700,000,000 of budget authority shall be for projects under section 8, United States Housing Act of 1937, as amended, the rents for which are approved pursuant to the note governing financing adjustments (46 Fed. Reg. 51903, October 23, 1981) or any published amendment thereto or successor note, except that the Secretary shall include in the determination of the fair market rental a debt service factor reflecting the lesser of (A) 14 percent or (B)(i) where the rate of interest on the permanent instrument sold to finance the project is 12 percent or less, such rate of interest or (ii) where the rate of interest on the permanent instrument sold to finance the project is more than 12 percent, one-half percent below such rate of interest but not less than 12 percent, and except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to October 1, 1982: *Provided further*, That with respect to newly constructed and substantially rehabilitated projects under section 8, United States Housing Act of 1937, as amended, during 1982, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from

95 Stat. 1417.

42 USC 1437f.

42 USC 1437f. increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: *Provided further*, That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty-four months following the date of initial reservation of contract authority for such project: *Provided further*, That \$74,375,000 of contract authority and \$1,750,000,000 of budget authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, shall not become available for obligation until October 1, 1982, and \$89,321,727 of the foregoing budget authority shall be for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further*, That to the extent that the amount of budget authority which is recaptured or deobligated, including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. part 883.207, does not equal \$5,000,000,000 on June 30, 1982, the amounts deferred in the immediately preceding proviso may be used in accordance with, and in addition to, the amounts provided in the third proviso of this paragraph, except that to the extent such amounts are used, an equivalent amount of such recaptured or deobligated contract authority and budget authority, which become available on or after July 1, 1982, through September 30, 1982, if any, shall be deferred until October 1, 1982.

Termination.

42 USC 1437f.

95 Stat. 1417.

42 USC 1437f.

#### PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for Operation of Low-Income Housing Projects", \$198,000,000: *Provided*, That of the total amount available in fiscal year 1982 for "Payments for Operation of Low-Income Housing Projects", \$1,215,275,400 shall be made available pro rata solely in accordance with the Performance Funding System (as set forth in 24 C.F.R. part 890, as of February 8, 1982).

#### RENT SUPPLEMENT

##### (RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1982 by not more than \$3,340,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

**INDEPENDENT AGENCIES****ENVIRONMENTAL PROTECTION AGENCY****CONSTRUCTION GRANTS**

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, \$2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended: *Provided*, That of such amount, \$3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas: *Provided further*, That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: *Provided further*, That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant allotments to fund the Solid Waste Energy facility in Akron, Ohio.

33 USC 1281,  
1285.Transfer of  
funds.**HAZARDOUS SUBSTANCE RESPONSE TRUST FUND**

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, \$5,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional \$2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the trustee of the fund, as outlined in section 223(b) of the Act.

42 USC 9611.

42 USC 9633.

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****RESEARCH AND DEVELOPMENT**

Notwithstanding any other provision of this or any other Act, of the funds appropriated under the heading, "National Aeronautics and Space Administration, Research and development" in Public Law 97-101, not less than the amounts hereinafter set forth shall be

95 Stat. 1426.

made available for the purposes specified: \$31,200,000 for expendable launch vehicles; \$323,500,000 for physics and astronomy (including \$40,000,000 for Shuttle-Spacelab payloads); \$205,000,000 for planetary exploration (including \$1,700,000 for the midlevel facility in Hawaii); \$39,500,000 for life sciences; \$328,200,000 for space applications (including \$2,300,000 for the search and rescue program, \$5,000,000 for technology transfer, \$6,000,000 for upper atmospheric research satellite experiments, \$16,200,000 for Shuttle-Spacelab payloads, and \$15,400,000 for a 30/20 gigahertz test satellite); \$8,000,000 for technology utilization; \$264,800,000 for aeronautical research and technology; \$111,000,000 for space research and technology; and \$402,100,000 for tracking and data acquisition: *Provided*, That of the funds available for the Space Shuttle, including space flight operations, not less than \$80,000,000 shall be made available for design, development and procurement of liquid hydrogen-liquid oxygen (Centaur) upper stages for use in launching the Galileo and Solar Polar spacecraft in 1986: *Provided further*, That no funds may be obligated for other upper stages, including kick stages, for the Galileo and Solar Polar spacecraft after the enactment of this Act except for work performed prior to the effective date of this Act, together with liability for termination: *Provided further*, That no funds appropriated in this or any other Act may be obligated for a Solar Maximum repair/retrieval mission until the Secretary of the Air Force enters into an agreement with the Administrator to reimburse the National Aeronautics and Space Administration 50 per centum of the costs of such mission (exclusive of the costs attributable solely to equipment for the Solar Maximum spacecraft and to equipment capable of reuse): *Provided further*, That upon request by the Administrator of the National Aeronautics and Space Administration and approval by the Committees on Appropriations not to exceed \$50,000,000 from the unobligated balances of funds appropriated under the heading "National Aeronautics and Space Administration, Construction of facilities" or "National Aeronautics and Space Administration, Research and program management" in Public Law 97-101 and Public Law 96-526 shall be available for the Space Shuttle, including space flight operations: *Provided further*, That the Administrator makes sufficient funds available to assure that a second Space Shuttle launch pad at the Kennedy Space Center, Florida, is operational by January 1, 1986.

95 Stat. 1426; 94  
Stat. 3054.

Space Shuttle  
launch pad.

#### ADMINISTRATIVE PROVISION

Limitations.

95 Stat. 1440.

Limitations in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, are amended as follows: The limitations on the Department of Housing and Urban Development's Office of the Assistant Secretary for Legislation and Congressional Relations are increased from 26 full-time permanent positions and 27 staff years to 31 full-time permanent positions and 33.5 staff years, the limitation on the National Aeronautics and Space Administration's Office of the Comptroller is increased from 150 full-time permanent positions to 161 full-time permanent positions, the limitation on the National Aeronautics and Space Administration's Office of External Relations is increased from 120 full-time permanent positions to 125 full-time permanent positions, excluding those positions allocated for Technology Utilization activities, and the limitation on the

Veterans Administration's Office of Planning and Program Evaluation is increased from \$1,500,000 to \$2,300,000.

### CHAPTER III

## DEPARTMENT OF TRANSPORTATION

### COAST GUARD

#### OPERATING EXPENSES

For an additional amount for "Operating expenses", \$17,500,000, to remain available until expended.

### FEDERAL HIGHWAY ADMINISTRATION

#### FEDERAL-AID HIGHWAY PROGRAM

Section 3(a) of the Federal-Aid Highway Act of 1981 is amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed \$19,000,000 in obligation authority to carry out section 310(d)(3) of Public Law 97-102."

95 Stat. 1699.  
23 USC 104 note.

For an additional amount of authority to execute contracts to replace or rehabilitate highway bridges according to Title 23, United States Code, Section 144, \$19,000,000 out of the Highway Trust Fund, to remain available until expended: *Provided*, That obligations incurred under this authority shall not be subject to any law limiting obligations for Federal-Aid Highways.

95 Stat. 1459.

Section 3(a) of the Federal-Aid Highway Act of 1981 is further amended by striking the period at the end of the first sentence and by inserting the following: "plus, an additional amount not to exceed \$53,000,000 in obligation authority which the Secretary shall allocate to the States in order to increase such total obligation limitation, so that the reduction of any State's final obligation limitation is held to 15 per centum of the tentative limitation issued by the Secretary on October 1, 1981."

### NATIONAL SCENIC AND RECREATIONAL HIGHWAY

#### (LIQUIDATION OF CONTRACT AUTHORIZATION)

Any amounts previously authorized to be derived from the Highway Trust Fund for payment of obligations in carrying out the provisions of 23 U.S.C. 148 are to be transferred to and administered under the appropriation "Federal-aid highways".

### FEDERAL RAILROAD ADMINISTRATION

#### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Section 303(d) of the Rail Passenger Service Act, 45 U.S.C. 543(d), is amended by changing the period at the end thereof to a semicolon and adding the following: "except that the holding of securities issued by a railroad shall not be deemed to be violative of this prohibition: *Provided*, That the officer who holds such securities

recuses himself from any decisions which bear directly on such railroad, and makes full public disclosure of such holdings.”.

## RELATED AGENCIES

### CIVIL AERONAUTICS BOARD

#### PAYMENTS TO AIR CARRIERS

For an additional amount for “Payments to air carriers”, \$28,400,000 to remain available until expended: *Provided*, That \$8,242,000 shall be used to liquidate obligations incurred during September 1981, to provide for subsidy payments under 49 U.S.C. 1376 and 1389: *Provided further*, That notwithstanding any other provision of law any funds appropriated for “Payments to air carriers” in this or any other Act which are not obligated by September 30, 1982, shall be available for obligations only for section 419 (49 U.S.C. 1389) subsidies, except for adjustments to section 406 (49 U.S.C. 1376) payments for service provided prior to September 30, 1982.

### INTERSTATE COMMERCE COMMISSION

#### PAYMENTS FOR DIRECTED RAIL SERVICE

For an additional amount for “Payments for directed rail service”, \$8,000,000, to remain available until expended.

45 USC 1015.

Section 120 of the Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in subsection (a)—

11 USC 205.

11 USC 1161.

(A) by striking out “the Rock Island Railroad” the first place it appears and inserting in lieu thereof “any railroad subject to section 77 of the Bankruptcy Act, or subchapter IV of chapter 11 of title 11, United States Code, which has ceased to provide passenger commuter service over any line of the railroad”;

(B) by striking out “2-year” and inserting in lieu thereof “3-year”; and

(C) by striking out “Rock Island Railroad” each place it appears (other than the first time it appears) and inserting in lieu thereof “railroad”; and

(2) in subsection (b), by striking out “the Rock Island Railroad” and inserting in lieu thereof “any railroad”.

## CHAPTER IV

### DEPARTMENT OF THE TREASURY

#### BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$81,604,000.

## BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$23,825,000: *Provided*, That no funds made available by this Act or Public Law 97-161 may be used to accomplish or implement any proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury in the fiscal year ending on September 30, 1982: *Provided further*, That no reorganization of the Bureau of Alcohol, Tobacco and Firearms or the transfer of the Bureau's functions, missions, or activities to other agencies within the Department of the Treasury subsequent to September 30, 1982, shall be accomplished or implemented without the specific, express approval of both the House and Senate Committees on Appropriations.

Transfer of functions.

*Ante*, p. 22.

## UNITED STATES CUSTOMS SERVICE

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$14,865,000, of which \$8,000,000 shall be used for salaries, expenses, equipment, and other related expenses for Operation Exodus.

## U.S. POSTAL SERVICE

## PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for payment to the Postal Service Fund for revenue foregone on free and reduced rates of mail, pursuant to 39 U.S.C. 2401(c), \$42,000,000: *Provided*, That notwithstanding any other provision of law, the Postal Service shall use these funds promptly to revise the adjustment to preferred rates made pursuant to section 108 of Public Law 97-92 so that all mail covered by the 16-year phasing schedule established pursuant to section 3626 of title 39, United States Code, shall benefit from step 13 on such schedule through September 30, 1982. This provision shall take effect ten days after enactment of this Act.

95 Stat. 1193.

Effective date.

Effective October 1, 1982, section 1723 of the Omnibus Reconciliation Act, Public Law 97-35, is amended by striking out "(a)" before "Notwithstanding" in subsection (a) and by striking out subsection (b).

Effective date.  
95 Stat. 759.  
39 USC 2401  
note.

## INDEPENDENT AGENCIES

## GENERAL SERVICES ADMINISTRATION

## OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$500,000.

## FEDERAL BUILDINGS FUND

Notwithstanding the provision immediately following the repairs and improvements line item projects under the heading "General

Limitations.



Services Administration, Federal buildings fund, Limitations on availability of revenue" in H.R. 4121 as passed by the House and in H.R. 4121 as reported by the Senate on September 22, 1981, funds presently available for repairs and alterations nonprospectus projects shall be used to initiate the design and related work required to begin the repairs and alterations of the U.S. Court of Appeals building, Atlanta, Georgia.

#### **MERIT SYSTEMS PROTECTION BOARD**

##### **SALARIES AND EXPENSES**

For an additional amount for "Salaries and expenses", \$4,006,000.

#### **OFFICE OF SPECIAL COUNSEL**

##### **SALARIES AND EXPENSES**

For an additional amount for "Salaries and expenses", \$238,000.

#### **U.S. TAX COURT**

##### **SALARIES AND EXPENSES**

For an additional amount for "Salaries and expenses", \$1,530,000.

### **CHAPTER V**

## **DEPARTMENT OF COMMERCE**

### **GENERAL ADMINISTRATION**

#### **SALARIES AND EXPENSES**

For an additional amount for "Salaries and expenses", \$3,171,000.

### **ECONOMIC DEVELOPMENT ADMINISTRATION**

#### **SALARIES AND EXPENSES**

##### **(TRANSFER OF FUNDS)**

For an additional amount for "Salaries and expenses", \$3,500,000 to be derived by transfer from the Economic Development Revolving Fund.

### **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

#### **OPERATIONS, RESEARCH, AND FACILITIES**

For an additional amount for "Operations, research, and facilities", \$2,000,000, to remain available until expended.

**RELATED AGENCY****INTERNATIONAL COMMUNICATION AGENCY****ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES**

Appropriations made available under this heading for fiscal year 1982 may be used for lease of real property for periods of up to twenty-five years in Africa, Asia, the Caribbean area, and Europe.

**CHAPTER VI****DEPARTMENT OF AGRICULTURE****FOOD AND NUTRITION SERVICE****FOOD STAMP PROGRAM**

For an additional amount for the "Food Stamp Program", \$1,006,616,000.

**CHAPTER VII****DEPARTMENT OF DEFENSE—CIVIL****DEPARTMENT OF THE ARMY****CORPS OF ENGINEERS—CIVIL****FLOOD CONTROL AND COASTAL EMERGENCIES**

For an additional amount for "Flood Control and Coastal Emergencies", \$40,000,000, to remain available until expended: *Provided*, That \$18,000,000 of the funds provided shall be for flood control measures and features on the Cowlitz and Toutle Rivers in the State of Washington.

**TITLE II****GENERAL PROVISIONS**

SEC. 201. Any institution of higher education specifically cited in the conference report on the Education Amendments of 1980 (report numbered 96-1337) as a unique institution which the conference committee for that legislation intended to be recognized as a developing institution eligible to apply for funds under title III of the Higher Education Act of 1965, shall be treated as an eligible institution for such purpose for fiscal year 1982, notwithstanding section 322(a)(2)(A) of such Act.

20 USC 1001  
note.

20 USC 1051.

20 USC 483 note.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 203. Notwithstanding any other provision of law, none of the funds provided for International Organizations and Programs in Public Law 97-121, the Foreign Assistance and Related Programs Appropriation Act for Fiscal Year 1982, shall be available for the United States proportionate share for any programs for the Pales-

95 Stat. 1647.

tine Liberation Organization, the South West Africa Peoples Organization, or Cuba.

Restrictions.

30 USC 801 note.

95 Stat. 1183.

Loan guarantee  
to Polish  
People's  
Republic.  
Report to  
Congress.

SEC. 204. No funds appropriated or otherwise made available for fiscal year 1982 shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 on any State or political subdivision thereof. Notwithstanding section 101(a)(3) of Public Law 97-92 or any similar or comparable provision of any other law, during fiscal year 1982 the Mine Safety and Health Administration shall have the same enforcement authorities vested in such Administration on September 30, 1981.

SEC. 205. Effective upon enactment of this Act and for the remainder of fiscal year 1982, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

95 Stat. 958.  
95 Stat. 1098,  
1183.  
*Ante*, p. 22.  
42 USC 256.

SEC. 206. Notwithstanding any other provision of law, the amounts appropriated for fiscal year 1982 under Public Law 97-51 (as amended by Public Law 97-85) and Public Law 97-92 (as amended by Public Law 97-161) for purposes of section 340 of the Public Health Service Act shall be available for funding grants and contracts under such section in areas that are not urbanized areas and in urbanized areas.

Fund  
apportionment.  
20 USC 1070b-3.  
20 USC 1070b.

SEC. 207. Notwithstanding any other provision of this Act, any other Act, or section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for the fiscal year 1982 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each State notwithstanding section 413D(b)(1)(B)(ii)(I) of the Higher Education Act of 1965.

20 USC 1070b-3.  
42 USC 2752.  
42 USC 2751.

SEC. 208. Notwithstanding any other provision of this Act, any other Act, or section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441 of the Higher Education Act of 1965 for the fiscal year 1982 among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the States (including the District of Columbia and the Commonwealth of Puerto Rico) so that the allotment of Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) bears the same ratio to the amount appropriated as the allotment of Guam, American

Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and each State (including the District of Columbia and the Commonwealth of Puerto Rico) for the fiscal year 1981 bears to the total amount appropriated pursuant to section 441 for that fiscal year: *Provided*, That the Secretary shall allocate sums to institutions in each jurisdiction notwithstanding the second sentence of section 446(a) of the Higher Education Act of 1965.

42 USC 2751.

SEC. 209. The Secretary of Education and the Director of the National Institute of Education shall not terminate any long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement) which—

42 USC 2756.  
Grant  
agreement,  
termination.  
20 USC 1221e  
note.

(1) was entered into under section 405(f) of the General Education Provisions Act, relating to laboratories and centers, and

20 USC 1221e.

(2) is in effect on the date of enactment of this Act, prior to the original completion date established by such long-term special institutional agreement (or any other grant agreement or contract which incorporates by reference such long-term special institutional agreement).

SEC. 210. (a) The Secretary of Agriculture shall initiate construction on not less than fifteen new projects under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) during fiscal year 1982.

Construction  
projects.

(b) Any project proposed for construction pursuant to the Act referred to in subsection (a) and submitted to the Director of the Office of Management and Budget for review shall be deemed to be approved by the Director unless disapproved by him within ninety days after submission.

Project approval.

SEC. 211. (a) Subsection (a) of section 112 of the Act of December 15, 1981 (95 Stat. 1194), is amended by inserting after “in connection with a qualified issue” the following: “, except to the extent such funds are used in connection with the consideration or granting of an exemption from the application of such revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation”.

(b) Subsection (d) of section 112 of the Act of December 15, 1981 (95 Stat. 1196), is amended to read as follows:

“(d) It is the sense of the Congress that after August 23, 1981, the Secretary of the Treasury or his delegate, in all cases, should enforce any revenue ruling or regulation described in paragraph (1) or (2) of subsection (a) in a manner consistent with the provisions of this section. Nothing in the preceding sentence shall prevent the Secretary of the Treasury or his delegate from granting or considering an exemption from the application of such a revenue ruling or regulation under proposed income tax regulation section 1.103-7(b)(6)(ii) or any similar statute or regulation.”

SEC. 212. Notwithstanding any provision of this or any other Act, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the potash industry as gassy based upon air samples containing concentrations of methane gas, unless such classification standard has been adopted through formal rulemaking on or after November 5, 1981.

Restrictions.

SEC. 213. None of the funds provided in this or any other Act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

Restrictions.

SEC. 214. The Department of Agriculture, U.S. Forest Service, within available funds, shall expend not less than \$1,000,000 for research on the cyclocrane concept of a lighter-than-air heavy lift vehicle for use in logging operations.

26 USC 162. SEC. 215. (a) The last sentence of section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by inserting “, but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of \$3,000” after “home”.

26 USC 280A. (b) Paragraph (4) of section 280A(f) of such Code (relating to coordination with section 162(a)(2)) is amended to read as follows:

“(4) COORDINATION WITH SECTION 162(a)(2).—Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer’s being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units).”

26 USC 162 note. (c) Subsection (a) of section 139 of the Act of October 1, 1981 (95 Stat. 967), is hereby repealed.

Effective date. (d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

26 USC 162 note. SEC. 216. For an additional amount for National Guard Personnel, Army, such amount as is necessary to make 850 man-days available to the Kentucky Army National Guard to implement and operate the Medical Assistance to Safety and Traffic program in Kentucky through August 1, 1982, to be derived by transfer from Operations and Maintenance, Army National Guard.

Restriction. SEC. 217. (a) None of the funds which are made available by this or any other Act shall be used to study, plan, or implement the termination of the operation of the Southwestern Indian Polytechnic Institute located in Albuquerque, New Mexico, in fiscal year 1982.

(b) The Secretary of the Interior shall use funds made available to the Department of the Interior under the Act of December 23, 1981 (95 Stat. 1391), to operate Southwestern Indian Polytechnic Institute through fiscal year 1982.

95 Stat. 1700. SEC. 218. Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, and section 102(c) of the Federal-Aid Highway Act of 1976, the Secretary may approve the use of interstate construction funds authorized by section 108(b) of the

23 USC 101 note.

Federal-Aid Highway Act of 1956, as amended, on projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System in accordance with the provisions of 23 U.S.C. 119, or for those purposes for which funds apportioned under 23 U.S.C. 104(b) (1), (2), and (6) may be expended, in a State which received no more than one-half of 1 per centum of the total apportionment under 23 U.S.C. 104(b)(5)(A) for the fiscal year ending September 30, 1983, where necessary in order to fully utilize funds apportioned under 23 U.S.C. 104(b)(5)(A) through the fiscal year ending September 30, 1982, but within the obligational limitation established by section 3 of the Federal-Aid Highway Act of 1981.

Approved July 18, 1982.

23 USC 101 note.

95 Stat. 1699.  
23 USC 104 note.

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**LEGISLATIVE HISTORY—H.R. 6685:**

HOUSE REPORT No. 97-632 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 24, considered and passed House.

June 29, considered and passed Senate, amended.

July 15, House concurred in Senate amendment, with an amendment; Senate agreed to conference report and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 29 (1982):

July 19, Presidential statement.

Public Law 97-217  
97th Congress

## An Act

July 19, 1982  
[S. 2651]

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Energy Policy  
and  
Conservation  
Act, extension.  
*Ante*, p. 106.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "July 1, 1982" and inserting in its place "August 1, 1982".

Approved July 19, 1982.

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**LEGISLATIVE HISTORY—S. 2651:**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 24, considered and passed Senate.  
July 15, considered and passed House.

Public Law 97-218  
97th Congress

An Act

To provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

July 20, 1982  
[H.R. 6590]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

No Net Cost  
Tobacco  
Program  
Act of 1982.

SHORT TITLE

SECTION 1. This Act may be cited as the “No Net Cost Tobacco Program Act of 1982”.

7 USC 1281 note.

FINDINGS

SEC. 2. Congress finds that—

7 USC 1445-1  
note.

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

7 USC 1281 note.

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATION OF TOBACCO PRICE SUPPORT  
PROGRAM

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106, a new section 106A as follows:

“PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

“SEC. 106A. (a) As used in the section—

Definitions.  
7 USC 1445-1.

“(1) the term ‘association’ means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;



"(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

"(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the 'No Net Cost Tobacco Fund';

"(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

"(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

"(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

Loan advances.

"(b) The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

Fund, establishment.

"(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

Price support eligibility.

"(d) The Secretary shall—

"(1) require—

"(A) that—

"(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco succeeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco

marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

“(B) that, upon making a contribution under subparagraph (A)—

“(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

Capital stock or capital certificate.

“(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

26 USC 1388.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

“(2) effective for the 1983 and subsequent crops, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

Acreage allotment and marketing quota leases.  
7 USC 1311.

“(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead

Capital stock or capital certificate.

costs of the association), after any net gains are applied to net losses of the corporation under paragraph (5);

“(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

“(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

“(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

“(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

“(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

“(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.”

#### ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsection (d) as follows:

Capital or net  
gain distri-  
bution.

Agreement,  
termination.

15 USC 714 note.

Regulations.

“(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided*, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.”.

7 USC 1423.

**PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA  
AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR  
PRICE SUPPORT**

SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: “The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account as required by sections 106A(d)(1) and 106(B)(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.”.

7 USC 1314.

7 USC 1421 note.

*Ante*, p. 197.

**TITLE II—MODIFICATION OF FLUE-CURED TOBACCO  
MARKETING QUOTA SYSTEM**

**LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND  
MARKETING QUOTAS**

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) is amended by—

(1) inserting “(1)” after “(a)”;

(2) inserting “shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and” after “program,”;

(3) inserting "Flue-cured," after "Burley,";

(4) inserting a comma before "to lease";

(5) adding at the end thereof the following new paragraph:

"(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

"(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

"(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

"(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

Lease or transfer, filing with county committee.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

"(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

"(i) between the lessor and lessee; or

"(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

"(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease."; and

(6) amending the section heading for such section to read as follows:

**"LEASE OR SALE OF ACREAGE ALLOTMENTS".**

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended by—

(1) in the first sentence—

(A) inserting "or sale and transfer" after "lease and transfer"; and

(B) striking out "such lease" and inserting in lieu thereof "the lease or sale agreement, as the case may be,";

(2) striking out the second sentence and inserting in lieu thereof the following: "In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing,

Lease or transfer, filing with county committee.

such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.”; and

7 USC 1421 note.

Review.

7 USC 1363.

(3) in the third sentence (as in effect before the amendment made by paragraph (2)) by—

(A) inserting “by lease or sale” after “transferred”; and

(B) striking out “lease and”.

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended by—

(1) inserting “(1)” after “(e)”;

(2) inserting “or sale” after “lease”;

(3) inserting “or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm” before the colon; and

(4) adding at the end thereof the following new paragraph:

“(2) For purposes of this section, the term ‘tillable cropland’ means cleared land that can be planted to crops without unusual cultivation or other preparation.”

“Tillable cropland.”

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

“(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell, for use on another farm in the same county, all or any part of such allotment or quota to any person who is or intends to become an active Flue-cured tobacco producer. For purposes of this section, the term ‘active Flue-cured tobacco producer’ means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved, or any person who certifies to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, his or her intent to become a Flue-cured tobacco producer.”

Allotment or quota, sale.

“Active Flue-cured tobacco producer.”

“(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

“(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

“(B) the amount of such person’s return on such investment is dependent solely on the sale price of such crop; and

“(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

“(h)(1) Any person who—

“(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

“(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

“(2) Any person who—

“(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

“(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person’s farm exceeding 50 per centum of the tillable cropland owned by such person; shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

Noncompliance,  
penalty.

“(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

Review.

“(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.”.

7 USC 1363.

**MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE  
ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT**

**SEC. 202.** The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by inserting after section 316, a new section 316A, as follows:

**“MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE  
ALLOTMENTS AND MARKETING QUOTAS**

**“SEC. 316A. (a)** Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section— 7 USC 1314b-1.

“(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

“(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c). Ante, p. 203.

“(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on or after December 1, 1983, owns a farm for which the total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm’s tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c). In the case of any person who acquires a farm after December 1, 1983, the acreage allotment or marketing quota representing the excess shall not be subject to forfeiture until July 1 of the year after the year of acquisition. Ante, p. 203.

“(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act. Noncompliance,  
penalty.

“(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.”. Ante, p. 203.  
Review.

7 USC 1363.

**PERIODIC ADJUSTMENT OF YIELD FACTOR FOR FLUE-CURED ACREAGE-  
POUNDAGE QUOTAS**

**SEC. 203.** Section 317(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by—

(1) adding at the end of paragraph (2) the following: “Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years’ moving national average yield.”;



(2) adding at the end of paragraph (4) the following: "Notwithstanding the preceding provisions of this subsection, in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate."; and

(3) adding at the end of paragraph (6)(A) the following: "Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.".

#### EXEMPTION OF CERTAIN NONQUOTA TOBACCO FROM QUOTA RESTRICTIONS

SEC. 204. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended by—

(1) striking out in paragraph (3) "and" at the end thereof;

(2) striking out in paragraph (4) the period at the end thereof and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.".

7 USC 1312.

#### CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f)) is amended by inserting "and sold" after "leased".

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended by—

(1) striking out "lease and" each place it appears;

(2) striking out "lessee" each place it appears and inserting in lieu thereof "transferee";

(3) striking out "lessor" each place it appears and inserting in lieu thereof "transferor"; and

(4) striking out "leased" each place it appears and inserting in lieu thereof "transferred".

#### LIEN FOR PAYMENT OF PENALTY; FALSE IDENTIFICATION OF TOBACCO

SEC. 206. (a) Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended by adding a new subsection as follows:

“(c) Until the amount of the penalty provided by this section is paid, a lien on the tobacco with respect to which such penalty is incurred, and on any subsequent tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States for the amount of the penalty.”.

(b) Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by adding a new subsection as follows:

“(j) Notwithstanding any other provision of this section, if a producer falsely identifies tobacco as having been produced on or marketed from a farm, the quantity of tobacco so falsely identified shall be considered for purposes of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced and the farm of actual production, if known, or, as the case may be, shall be considered as actually marketed from the farm.”.

#### EFFECTIVE DATE

SEC. 207. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

7 USC 1314b  
note.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

### TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

#### MARKETING ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT

SEC. 301. Effective for the 1982 and subsequent crops of all kinds of tobacco except Flue-cured tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106A (as added by section 101 of this Act), a new section 106B as follows:

*Ante*, p. 197.

#### “MARKETING ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT

“SEC. 106B. (a) As used in this section—

Definitions.  
7 USC 1445-2.

“(1) the term ‘association’ means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of a kind of tobacco, except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco;

“(2) the term ‘Account’ means an account established by and in the Corporation for an association, which account shall be known as the ‘No Net Cost Tobacco Account’;

“(3) the term ‘to market’ means to dispose of tobacco by voluntary or involuntary sale, barter, exchange, gift *inter vivos*, or consigning the tobacco to an association for a price support advance;

“(4) the term ‘net gains’ means the amount by which total proceeds obtained from the sale by an association of a crop of a kind of tobacco pledged to the Corporation for price support

loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges;

"(5) the term 'tobacco' means any kind of tobacco except Flue-cured tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

"(6) the term 'area', when used in connection with an association, means the general geographical area in which farms of the producer-members of such association are located, as determined by the Secretary; and

"(7) the term 'Corporation' shall have the meaning given to it in section 106A(a)(2).

*Ante*, p. 197.

"(b) Notwithstanding section 106A, the Secretary shall, upon the request of any association, and may, if the Secretary determines, after consultation with such association, that the accumulation of the No Net Cost Tobacco Fund for such association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such association—

"(1) continue to make price support available to producers through such association in accordance with loan agreements entered into between the Corporation and such association; and

"(2) establish and maintain in accordance with this section a No Net Cost Tobacco Account for such association in lieu of the No Net Cost Tobacco Fund established within such association under section 106A.

No Net Cost  
Tobacco  
Account.  
Establishment.

"(c)(1) Any Account established for an association under subsection (b)(2) shall be established within the Corporation and shall be comprised of amounts paid by producers under subsection (d).

"(2) Upon the establishment of an Account for an association, any amount in the No Net Cost Tobacco Fund established within such association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

"(d)(1) If an Account is established for an association under subsection (b)(2), then the Secretary shall require (in lieu of any requirement under section 106A(d)(1)) that each producer of the kind of tobacco involved whose farm is within such association's area shall, as a condition of eligibility for price support, agree, with respect to all of such kind of tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such association's Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

"(2) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such association, the amount of the marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of the kind of tobacco involved marketed by a producer from a farm within such association's area. Such amount shall be equal to an amount which, when collected, will result in an accumulation of an Account for such association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such association, based on reasonable estimates of the amounts which the Corporation will lend to such association under such

agreements and the proceeds which will be realized from the sales of the kind of tobacco involved which are pledged to the Corporation by such association as security for loans.

“(3)(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such tobacco is marketed by sale.

“(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.

“(e) Amounts deposited in an Account established for an association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h).

“(f) The Secretary shall provide, in any loan agreement between the Corporation and an association for which an Account has been established under subsection (b)(2), that if the Secretary determines that the amount in such Account or the net gains referred to in subsection (h) exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

“(g) With respect to any association for which an Account is established under subsection (b)(2), if a loan agreement between the Corporation and such association is terminated, if such association is dissolved or merges with another association that has entered into a loan agreement with the Corporation to make price support available to producers of the kind of tobacco involved, or if such Account terminates by operation of law, then amounts in such Account and the net gains referred to in subsection (h) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

“(h) The provisions of section 106A(d)(5) relating to net gains shall apply to any loan agreement between an association and the Corporation entered into upon or after the establishment of an Account for such association under subsection (b)(2). *Ante*, p. 197.

“(i) The Secretary shall issue regulations necessary to carry out the provisions of this section.”. *Regulations.*

**MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS  
AND MARKETING QUOTAS HELD BEFORE ENACTMENT**

**SEC. 302.** The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding after section 316A (as added by section 202 of this Act), a new section 316B, as follows:

*Ante*, p. 205.

**“MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE  
ALLOTMENTS AND MARKETING QUOTAS**

7 USC 1314b-2.

**“SEC. 316B. (a)** Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of this section—

**“(1)** owns a farm for which a Burley tobacco marketing quota is established under this Act; and

**“(2)** is not significantly involved in the management or use of land for agricultural purposes;

shall sell, not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active Burley tobacco producer or any person who intends to become an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b).

Noncompliance,  
penalty.

**“(b)(1)** If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers or those intending to become active Burley tobacco producers as defined by the Secretary, for use in such county.

Review.

**“(2)** Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

7 USC 1363.

**“(c)(1)** Any person who—

**“(A)** acquires any Burley tobacco marketing quota by purchase under subsection (a) of this section; and

**“(B)** with respect to any crop of Burley tobacco planted after the date of such acquisition, fails for the five-year period immediately subsequent to the year of such acquisition to share in the risk of producing Burley tobacco under such allotment or quota in the manner specified in paragraph (2) of this subsection;

shall sell such quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such quota shall be subject to forfeiture under the procedures specified in paragraph (3) of this subsection.

**“(2)** For purposes of this subsection, a person shall be considered to have shared in the risk of producing a crop of Burley tobacco if—

**“(A)** the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

**“(B)** the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

“(C) such person may not receive any of such return before the sale of such crop.

“(3)(A) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with this subsection, then the quota specified in this subsection shall be forfeited and shall be reallocated by such county committee for use by active Burley tobacco producers or those intending to become active Burley tobacco producers, as defined by the Secretary, for use in such county.

“(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.”.

Review.

7 USC 1363.

**POUNDAGE QUOTAS FOR DARK AIR-CURED TOBACCO AND FOR FIRE-CURED TOBACCO; MODIFICATION OF LEASING OF POUNDAGE QUOTAS FOR BURLEY TOBACCO**

SEC. 303. (a) Section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(15)) is amended by striking out the period at the end thereof and inserting in lieu thereof “: *And provided further*, That for purposes of section 319 of this title, types 22 and 23, fire-cured tobacco shall be treated as one ‘kind of tobacco’.”.

7 USC 1314e.

(b) Section 319(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(b)) is amended by—

(1) in the first sentence, inserting “for burley tobacco” after “in effect”;

(2) in the second sentence—

(A) inserting “for burley tobacco” after “basis”; and

(B) inserting “for burley tobacco” after “in effect”;

(3) in the fourth sentence, striking out “such kind of” and inserting in lieu thereof “burley”;

(4) in the proviso to the fifth sentence, inserting “for burley tobacco” after “determined”; and

(5) striking out the subsection designation “(b)”.

(c) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by inserting before subsection (c) the following new subsection:

“(b) Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as ‘fire-cured tobacco’) for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning

Referendum.

Effective date.

October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

Referendum.

"If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

Hearings.

"The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accord-

ance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply: *Provided*, That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.”

(d) Section 319(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(c)) is amended by—

(1) in the first sentence—

(A) striking out “burley tobacco” and inserting in lieu thereof “any kind of tobacco for which poundage quotas may be established”; and

(B) inserting “of such kind of tobacco” after “amount” the first place it appears;

(2) in the second sentence, striking out “Any” and inserting in lieu thereof “With respect to burley tobacco, any”; and

(3) in the third sentence—

(A) inserting “for a kind of tobacco” after “in effect”;

(B) inserting “with respect to such kind of tobacco” after “reserve” the first place it appears;

(C) inserting “for such kind of tobacco” after “quota” the first place it appears; and

(D) striking out “per centum of the” and inserting in lieu thereof “per centum of such”.

(e) Section 319(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(d)) is amended by—

(1) in the first sentence—

(A) inserting “for a kind of tobacco” after “proclaimed”;

(B) striking out “a burley tobacco acreage allotment” and inserting in lieu thereof “an acreage allotment for such kind of tobacco”; and

(C) inserting “, in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco” after “1970”; and

(2) in the second sentence—

(A) inserting “, in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco” after “crop year”;

(B) striking out “burley tobacco” the first place it appears and inserting in lieu thereof “the kind of tobacco involved”;

(C) striking out “burley tobacco” in each of the second, third, fourth, and fifth places it appears and inserting in lieu thereof “such kind of tobacco”; and

(D) striking out the period at the end thereof and inserting in lieu thereof “, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further*, That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average



yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.”.

- (f) Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended by—

(1) inserting after the first sentence the following: “A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the marketing year beginning October 1, 1982.”;

(2) in the third sentence (as in effect before the amendment made by paragraph (1)), striking out “burley tobacco marketing quotas” and inserting in lieu thereof “marketing quotas for the kind of tobacco involved”; and

(3) in the sixth sentence (as in effect before the amendment made by paragraph (1))—

(A) striking out “burley tobacco experience of the farm operator” and inserting in lieu thereof “experience of the farm operator with respect to the kind of tobacco involved”; and

(B) striking out “production of burley tobacco” each place it appears and inserting in lieu thereof “production of such kind of tobacco”.

- (g) The first sentence of section 319(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(f)) is amended by—

(1) inserting “for any kind of tobacco” after “in effect”; and

(2) striking out “burley tobacco” and inserting in lieu thereof “such kind of tobacco”.

- (h) Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by—

(1) inserting “for any kind of tobacco” after “in effect”;

(2) striking out “burley tobacco” and inserting in lieu thereof “such kind of tobacco”; and

(3) in the third proviso—

(A) striking out “fifteen thousand pounds” and inserting in lieu thereof “thirty thousand pounds”; and

(B) inserting “with respect to burley tobacco” after “section”.

- (i) Section 319(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(i)) is amended by—

(1) in the proviso to paragraph (1), striking out “burley tobacco” and inserting in lieu thereof “the kind of tobacco involved”; and

(2) in paragraph (3), inserting “with respect to burley tobacco” after “in effect”.

- (j) The section heading for section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1313e) is amended to read as follows:

“FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO”.

#### CONFIDENTIAL DATA

7 USC 1373.

SEC. 304. Section 373(c) of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new sentence: “Nothing in this section shall be deemed to prohibit the issuance of

general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.”.

#### LONG-TERM GRAIN SALES AGREEMENT

SEC. 305. (a) The Congress finds that—

(1) talks to extend the long-term grain sales agreement between the Soviet Union and the United States were broken off in 1981 with no date set for resumption of these talks;

(2) the Government of the Soviet Union for all practical purposes has ceased to purchase United States agricultural commodities since the breaking off of negotiations;

(3) the lack of a long-term grain sales agreement may result in market instability, with the potential of disrupting the feed-livestock relationship in the United States;

(4) the lack of such an agreement may result in uncertainty among farmers as to the best planting decisions for the upcoming crop year;

(5) the lack of such an agreement has already led the Soviet Union to seek other sources of supplies at the expense of the American farmer; and

(6) the lack of such an agreement means a drop in the export of agricultural commodities and continued severe difficulties with the balance of trade deficit of the United States.

(b) It is the sense of the Congress that the President should immediately resume negotiations with the Government of the Soviet Union for the purpose of reaching an agreement to extend the duration of the existing long-term grain sales agreement and to require the purchase by the Government of the Soviet Union of a minimum amount of grain annually at a level not less than the level required by the existing long-term grain sales agreement.

#### LIMITATION ON THE SALE OF TOBACCO FLOOR SWEEPINGS

SEC. 306. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding immediately after section 314 thereof the following new section:

“SEC. 314A. (a) Effective for the 1982 and subsequent crops of tobacco, the marketing of floor sweepings of any kind of tobacco in excess of allowable floor sweepings shall be subject to a civil penalty of 150 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by any person found by the Secretary to have marketed such floor sweepings in excess of the allowable amount.

“(b) The penalty provided for in subsection (a) shall be assessed by the Secretary only after the person alleged to have marketed floor sweepings in excess of allowable floor sweepings has been given notice and an opportunity for hearing and the Secretary has determined by decision incorporating the Secretary’s findings of fact that a violation did occur and the amount of the penalty.

“(c) The provisions of section 376 of this title shall apply to penalties under this section.

“(d) As used in this section—

Penalties.  
7 USC 1314-1.

7 USC 1376.

Definitions.

“(1) the term ‘floor sweepings’ means the scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business; and

“(2) the term ‘allowable floor sweepings’ means the quantity of floor sweepings determined by multiplying 0.24 per centum times the total first sales of tobacco at auction for the season for the warehouse involved.”.

#### TITLE IV—THE AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEE SYSTEM

16 USC 590h  
note.

SEC. 401. Congress finds that agricultural stabilization and conservation county and community committees have served, and should continue to serve, a vital function in implementing, at the local level, farm commodity, soil conservation, and related programs; and that, by assisting the United States Department of Agriculture to conduct such programs effectively, such committees provide substantial benefits to agriculture and the Nation. Congress further finds that the agricultural stabilization and conservation county and community committee system has developed, over the years, into a highly efficient mechanism for implementing such programs at the local level. Therefore, it is the sense of Congress that the Secretary of Agriculture should ensure that the structure and operations of the agricultural stabilization and conservation county and community committees, as heretofore developed to enable such committees to meet the responsibilities assigned them under section 8(b) of the Soil Conservation and Domestic Allotment Act, and related statutes and regulations, be preserved and strengthened.

16 USC 590h.

Approved July 20, 1982.

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#### LEGISLATIVE HISTORY—H.R. 6590:

HOUSE REPORT No. 97-613 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

June 21, considered and passed House.

July 14, considered and passed Senate, amended.

July 15, House concurred in Senate amendments.

Public Law 97-219  
97th Congress

An Act

To amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

July 22, 1982  
[S. 881]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Small Business Innovation Development Act of 1982".

SEC. 2. (a) The Congress finds that—

(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and the United States balance-of-payments deficit;

(2) while small business is the principal source of significant innovations in the Nation, the vast majority of federally funded research and development is conducted by large businesses, universities, and Government laboratories; and

(3) small businesses are among the most cost-effective performers of research and development and are particularly capable of developing research and development results into new products.

(b) Therefore, the purposes of the Act are—

(1) to stimulate technological innovation;

(2) to use small business to meet Federal research and development needs;

(3) to foster and encourage participation by minority and disadvantaged persons in technological innovation; and

(4) to increase private sector commercialization innovations derived from Federal research and development.

SEC. 3. Section 9(b) of the Small Business Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) to develop and maintain a source file and an information program to assure each qualified and interested small business concern the opportunity to participate in Federal agency small business innovation research programs;

"(5) to coordinate with participating agencies a schedule for release of SBIR solicitations, and to prepare a master release schedule so as to maximize small businesses' opportunities to respond to solicitations;

"(6) to independently survey and monitor the operation of SBIR programs within participating Federal agencies; and

"(7) to report not less than annually to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives on the SBIR programs

Small Business  
Innovation  
Development  
Act of 1982.  
15 USC 631 note.  
15 USC 638 note.

15 USC 638.

Report to  
congressional  
committees.

of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR programs.".

15 USC 638. SEC. 4. Section 9 of the Small Business Act is amended by adding at the end thereof the following new subsections:

Definitions.

"(e) For the purpose of this section—

"(1) the term 'extramural budget' means the sum of the total obligations minus amounts obligated for such activities by employees of the agency in or through Government-owned, Government-operated facilities, except that for the Agency for International Development it shall not include amounts obligated solely for general institutional support of international research centers or for grants to foreign countries;

"(2) the term 'Federal agency' means an executive agency as defined in section 105 of title 5, United States Code, or a military department as defined in section 102 of such title, except that it does not include any agency within the Intelligence Community (as the term is defined in section 3.4(f) of Executive Order 12333 or its successor orders);

"(3) the term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government;

"(4) the term 'Small Business Innovation Research Program' or 'SBIR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a uniform process having—

"(A) a first phase for determining, insofar as possible, the scientific and technical merit and feasibility of ideas submitted pursuant to SBIR program solicitations;

"(B) a second phase to further develop the proposed ideas to meet the particular program needs, the awarding of which shall take into consideration the scientific and technical merit and feasibility evidenced by the first phase and, where two or more proposals are evaluated as being of approximately equal scientific and technical merit and feasibility, special consideration shall be given to those proposals that have demonstrated third phase, non-Federal capital commitments; and

"(C) where appropriate, a third phase in which non-Federal capital pursues commercial applications of the research or research and development and which may also involve follow-on non-SBIR funded production contracts with a Federal agency for products or processes intended for use by the United States Government; and

"(5) the term 'research' or 'research and development' means any activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

"(f)(1) Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for

Research or  
research  
and  
development,  
budget.

fiscal year 1982, or any fiscal year thereafter, shall expend not less than 0.2 per centum of its extramural budget in fiscal year 1983 or in such subsequent fiscal year as the agency has such budget, not less than 0.6 per centum of such budget in the second fiscal year thereafter, not less than 1 per centum of such budget in the third fiscal year thereafter, and not less than 1.25 per centum of such budget in all subsequent fiscal years with small business concerns specifically in connection with a small business innovation research program which meets the requirements of the Small Business Innovation Development Act of 1982 and regulations issued thereunder: *Provided*, That any Federal agency which has an extramural budget for research or research and development in excess of \$10,000,000,000 for fiscal year 1982 shall expend not less than 0.1 per centum of its extramural budget in fiscal year 1983, not less than 0.3 per centum of such budget in the second fiscal year thereafter, not less than 0.5 per centum of such budget in the third fiscal year thereafter, not less than 1 per centum of such budget in the fourth fiscal year thereafter, and not less than 1.25 per centum of such budget in all subsequent fiscal years with small business concerns specifically in connection with a small business innovation research program which meets the requirements of the Small Business Innovation Development Act of 1982 and regulations issued thereunder: *Provided further*, That a Federal agency shall not make available for the purpose of meeting the requirements of this subsection an amount of its extramural budget for basic research or research and development which exceeds the percentages specified herein. Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than under a small business innovation research program shall not be counted as meeting any portion of the percentage requirements of this subsection.

“(2) Amounts appropriated for atomic energy defense programs of the Department of Energy shall for the purposes of paragraph (1) be excluded from the amount of the research or research and development budget of that Department.

“(g) Each Federal agency required by subsection (f) to establish a small business innovation research program shall, in accordance with this Act and regulations issued hereunder—

“(1) unilaterally determine categories of projects to be in its SBIR program;

“(2) issue small business innovation research solicitations in accordance with a schedule determined cooperatively with the Small Business Administration;

“(3) unilaterally receive and evaluate proposals resulting from SBIR proposals;

“(4) unilaterally select awardees for its SBIR funding agreements;

“(5) administer its own SBIR funding agreements (or delegate such administration to another agency);

“(6) make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements; and

“(7) make an annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy.

“(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and develop-

Small business  
innovation  
research  
program,  
requirements.

ment in excess of \$20,000,000 for any fiscal year beginning with fiscal year 1983 or subsequent fiscal year shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less than the percentage of the agency's research or research and development budget expended under funding agreements with small business concerns in the immediately preceding fiscal year.

"(i) Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of awards pursuant to grants, contracts, or cooperative agreements over \$10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

Policy directives.

"(j) The Small Business Administration, after consultation with the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, and the Intergovernmental Affairs Division of the Office of Management and Budget, shall, within one hundred and twenty days of the enactment of the Small Business Innovation Development Act of 1982, issue policy directives for the general conduct of the SBIR programs within the Federal Government, including providing for—

"(1) simplified, standardized, and timely SBIR solicitations;

"(2) a simplified, standardized funding process which provides for (A) the timely receipt and review of proposals; (B) outside peer review for at least phase two proposals, if appropriate; (C) protection of proprietary information provided in proposals; (D) selection of awardees; (E) retention of rights in data generated in the performance of the contract by the small business concern; (F) transfer of title to property provided by the agency to the small business concern if such a transfer would be more cost effective than recovery of the property by the agency; (G) cost sharing; and (H) cost principles and payment schedules;

"(3) exemptions from the regulations under paragraph (2) if national security or intelligence functions clearly would be jeopardized;

"(4) minimizing regulatory burden associated with participation in the SBIR program for the small business concern which will stimulate the cost-effective conduct of Federal research and development and the likelihood of commercialization of the results of research and development conducted under the SBIR program; and

"(5) simplified, standardized, and timely annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy.

"(k) The Director of the Office of Science and Technology Policy, in consultation with the Federal Coordinating Council for Science, Engineering and Research, shall, in addition to such other responsibilities imposed upon him by the Small Business Innovation Development Act of 1982—

"(1) independently survey and monitor all phases of the implementation and operation of SBIR programs within agencies required to establish an SBIR program, including compliance with the expenditures of funds according to the requirements of subsection (f) of this section; and

“(2) report not less than annually, and at such other times as the Director may deem appropriate, to the Committees on Small Business of the Senate and the House of Representatives on all phases of the implementation and operation of SBIR programs within agencies required to establish an SBIR program, together with such recommendations as the Director may deem appropriate.”.

Report to  
congressional  
committees.

SEC. 5. Effective October 1, 1988, paragraphs (4) through (7) of section 9(b) of the Small Business Act (as added by section 3) and subsections (e) through (k) of section 9 of the Small Business Act (as added by section 4) are repealed.

15 USC 638.

SEC. 6. The Comptroller General shall, not more than five years after the date of enactment of this Act, transmit a report to the Senate and the House of Representatives on the implementation of, and nature of research conducted under this Act, including the judgments of the heads of Departments and agencies as to the effect of this Act on research programs.

Report to  
Congress.  
15 USC 638 note.

Approved July 22, 1982.

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LEGISLATIVE HISTORY—S. 881 (H.R. 4326):

HOUSE REPORTS: No. 97-349, Pts. I-7 accompanying H. R. 4326 (Comms. on Small Business; Energy and Commerce; Veterans' Affairs; Science and Technology; Foreign Affairs; Armed Services; and Permanent Select Committee on Intelligence), respectively.

SENATE REPORT No. 97-194 (Comm. on Small Business).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 7, 8, considered and passed Senate.

Vol. 128 (1982): June 17, 22, 23, H.R. 4326 considered and passed House; passage vacated and S. 881, amended, passed in lieu.

June 29, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 18, No. 29 (1982): July 22, Presidential statement.



Public Law 97-220  
97th Congress

An Act

July 22, 1982  
[S. 1230]

To provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games.

Olympic  
Commemorative  
Coin Act.  
31 USC 5112  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Commemorative Coin Act".

COIN SPECIFICATIONS

31 USC 5112  
note.

SEC. 2. (a)(1) Notwithstanding any other provision of law, the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than fifty million one-dollar coins which shall weigh 26.73 grams, have a diameter of 1.50 inches, and shall contain 90 per centum silver and 10 per centum copper.

(2) The Secretary shall determine the design of such one-dollar coins. Such design shall be emblematic of the 1984 summer Olympic games which are to be held in Los Angeles, California. On each such one-dollar coin there shall be a designation of the value of the coin, an inscription of the year of issue, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(3) The coins shall be issued in two separate designs, one in 1983 and one in 1984.

(b)(1) Notwithstanding any other provision of law, the Secretary shall issue not more than two million ten-dollar coins which shall weigh 16.718 grams, have a diameter of 1.06 inches, and shall contain 90 per centum gold and 10 per centum copper.

(2) The Secretary shall determine the design of such ten-dollar coin. Such design shall be emblematic of the 1984 summer Olympic games which are to be held in Los Angeles, California. On each such ten-dollar coin there shall be a designation of the value of the coin, an inscription of the year 1984, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) The coins issued under this section shall be issued in uncirculated and proof qualities.

(d) All coins issued under this section shall be legal tender as provided in section 102 of the Coinage Act of 1965.

(e)(1) The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(2) The Secretary shall obtain silver for the coins minted under this Act from stocks of silver held by the Secretary of the Treasury or from any other federally owned stocks of silver.

31 USC 392.

## SALES WITHIN THE UNITED STATES

SEC. 3. (a) Notwithstanding any other provision of the law, the coins issued under this Act shall be sold within the United States (including United States military and diplomatic establishments outside the United States) by the Secretary under such regulations as he may prescribe and at a price equal to face value, plus the cost of issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

31 USC 5112  
note.

(b) The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) All sales shall include a surcharge, established by the Secretary, of not less than \$10 per coin for one-dollar coins and not less than \$50 per coin for ten-dollar coins.

## INTERNATIONAL SALES

SEC. 4. (a) The Secretary shall assign the rights to market the coins outside the United States (excluding United States military and diplomatic establishments outside the United States) to a marketing organization selected under section 5.

31 USC 5112  
note.

(b) The marketing organization assigned the rights under this section shall pay a price determined under sections 3 (b) and (d).

## SELECTION OF INTERNATIONAL MARKETERS

SEC. 5. (a) As soon as possible after the effective date of this Act, a committee consisting of the Secretary of the Treasury, the executive director of the United States Olympic Committee, and the president of the Los Angeles Olympic Organizing Committee, shall solicit, in accordance with procedures specified by the Secretary of the Treasury, proposals from marketing organizations to carry out a marketing agreement. Such procedures shall include the publication of evaluation criteria that will serve as a basis for selecting one or more marketing organizations. Such criteria shall include—

31 USC 5112  
note.

(1) the financial resources and coin marketing experience of the marketing organization;

(2) the estimated proceeds from the sale or other disposition of the coins; and

(3) the commitment of the marketing organization to purchase a certain minimum number of such coins or to pay the surcharge on such coins; and

(4) the terms and conditions for the marketing of the coins, including—

(A) proper and equitable distribution of the coins, and

(B) accurate and otherwise appropriate advertising materials to be used in promoting the coins.

(b) Within forty-five days after the effective date of this Act, the committee shall consider all proposals received from marketing organizations under subsection (a) and select by majority vote one or more marketing organizations which offer the terms for marketing of the coins most favorable in accordance with the published evaluation criteria. Any marketing organization selected shall be acceptable to the Secretary of the Treasury.

## DISTRIBUTION OF PROCEEDS

31 USC 5112  
note.

SEC. 6. (a) Fifty per centum of the amount of all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used to train United States Olympic athletes, to support local or community amateur athletic programs, and to erect facilities for the training of such athletes.

(b) Fifty per centum of the amount of all surcharges which are received by the Secretary from the sale of coins under this Act shall be promptly paid by the Secretary to the Los Angeles Olympic Organizing Committee. Such amounts shall be used to stage and promote the 1984 Los Angeles Olympic games.

(c) Amounts received by the Secretary from advance sale of coins to be issued under this Act shall be paid to the United States Olympic Committee and the Los Angeles Olympic Organizing Committee under subsections (a) and (b), provided that any amounts paid to the Committees shall not exceed an amount equivalent to the surcharges received by the Secretary from the advance sale of coins.

Remittance date.

(d)(1) On March 31, 1985, the Los Angeles Olympic Organizing Committee shall remit to the United States Olympic Committee all amounts remaining from the disposition of the coins under this Act. In no event may such amount be less than that portion of the unobligated funds of the committee on that date represented by the ratio of the total amount of income received by the committee from the disposition of the coins minted under this Act to the total amount of income received by the committee from all sources.

(2) After March 31, 1985, all amounts received by the committee from the disposition of coins minted under this Act shall be remitted within ten days to the United States Olympic Committee.

(3) All amounts received by the United States Olympic Committee under this subsection shall be used solely for the purposes described in subsection (a).

## IMPLEMENTATION AGREEMENT

31 USC 5112  
note.

SEC. 7. (a) The Secretary of the Treasury shall enter into an agreement with the marketing organization selected under section 5 which shall provide for the implementation of that section and which shall include an agreement on—

(1) the price and schedule of payments for the coins;

(2) the schedule and other provisions for the delivery of the coins; and

(3) the proportions of proof and uncirculated coins.

(b) The agreement between the Secretary of the Treasury and the committee shall ensure that the issuance of coins under this section shall result in no net cost to the United States Government.

(c) The agreement between the Secretary of the Treasury and the marketing organization shall direct that the marketing organization shall not use any words, perform any act, or make any statement, written or oral, which would imply or indicate, or tend to imply or indicate, that any portion of the coins' sale price to the public constitutes a tax-deductible contribution.

(d) To the extent possible, the agreement between the Secretary of the Treasury and the marketing organization shall be concluded

within sixty days of the date of the selection of the marketing organization.

(e) The Secretary may terminate the implementation agreement and cease minting and the delivery of the coins issued under this section if the Secretary of the Treasury finds that such termination is in the best interests of the United States. Reasons for such termination may include actions which are inconsistent with the terms of the implementation agreement or advertising materials that are inappropriate for advertising the sale of United States coinage or otherwise not in keeping with the dignity of the United States coinage.

Termination.

(f) If the Secretary of the Treasury exercises his authority under subsection (e), the amount of any proceeds guaranteed to the Los Angeles Olympic Organizing Committee and the United States Olympic Committee by a marketing organization under a marketing agreement shall not be reduced.

#### COINAGE PROFIT FUND

SEC. 8. Notwithstanding any other provision of law—

31 USC 5112  
note.

- (1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;
- (2) the Secretary shall pay the amounts authorized under section 6 from the coinage profit fund; and
- (3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

#### AUDITS

SEC. 9. The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee and the Los Angeles Olympic Organizing Committee as may be related to the expenditure of amounts paid under section 6.

31 USC 5112  
note.

#### FINANCIAL ASSURANCES

SEC. 10. (a) The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

31 USC 5112  
note.

(b) No coin shall be issued under this Act unless the Secretary has received full payment therefor.

(c) The Secretary shall certify, in reports required to be filed under section 11 of this Act, that he is in compliance with this section.

## REPORTS TO CONGRESS

31 USC 5112  
note.

SEC. 11. Not later than forty-five days after the last day of each calendar quarter, the Secretary shall transmit a report to the Congress regarding the activities carried out under this Act during such calendar quarter. No such report shall be required with respect to any calendar quarter beginning after December 31, 1985.

Approved July 22, 1982.

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**LEGISLATIVE HISTORY—S. 1230:**

HOUSE REPORT No. 97-554 (Comm. on Banking, Finance and Urban Affairs).

SENATE REPORT No. 97-264 (Comm. on Banking, Housing, and Urban Affairs).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 9, considered and passed Senate.

Vol. 128 (1982): May 20, considered and passed House, amended.

July 1, Senate concurred in House amendment.

Public Law 97-221  
97th Congress

An Act

To amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

July 23, 1982  
[S. 2240]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".*

Federal  
Employees  
Flexible and  
Compressed  
Work  
Schedules Act of  
1982.  
5 USC 6101 note.

SEC. 2. (a) Chapter 61 of title 5, United States Code, is amended—

(1) by inserting before section 6101 the following:

"SUBCHAPTER I—GENERAL PROVISIONS";

and

(2) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK  
SCHEDULES

"§ 6120. Purpose

"The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

"§ 6121. Definitions

"For purposes of this subchapter—

"(1) 'agency' means any Executive agency, any military department, and the Library of Congress;

"(2) 'employee' has the meaning given it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under sections 6122 through 6126 of this title, means all hours in excess of 8 hours in a day or 40 hours in

a week which are officially ordered in advance, but does not include credit hours;

“(7) ‘overtime hours’, when used with respect to compressed schedule programs under sections 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule; and

“(8) ‘collective bargaining’, ‘collective bargaining agreement’, and ‘exclusive representative’ have the same meanings given such terms—

5 USC 7103.

“(A) by section 7103(a) (12), (8), and (16) of this title, respectively, in the case of any unit covered by chapter 71 of this title; and

5 USC 7101  
*et seq.*

“(B) in the case of any other unit, by the corresponding provisions applicable under the personnel system covering this unit.

#### “§ 6122. Flexible schedules; agencies authorized to use

5 USC 6101.

“(a) Notwithstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include—

“(1) designated hours and days during which an employee on such a schedule must be present for work; and

“(2) designated hours during which an employee on such a schedule may elect the time of such employee’s arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee’s position are fulfilled.

“(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement referred to in section 6130(a) of this title, if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

“(1) restrict the employees’ choice of arrival and departure time,

“(2) restrict the use of credit hours, or

“(3) exclude from such program any employee or group of employees.

#### “§ 6123. Flexible schedules; computation of premium pay

“(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

“(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other provision of law; or

“(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

5 USC 5542,  
5543, 5544, 5550.

“(b) Notwithstanding the provisions of law referred to in subsection (a)(1) of this section, an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee’s basic work requirement.

“(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized, except that—

5 USC 5545.

“(A) if an employee is on a flexible schedule under which—

“(i) the number of hours during which such employee must be present for work, plus

“(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the nightwork hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

“(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

“(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized, except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

5 USC 5343.

“(A) in the case of an employee subject to subsection (f) of such section 5343, for which all or a majority of the hours of such schedule for any day fall between the hours specified in such subsection, or

“(B) in the case of an employee subject to subsection (e)(2) of such section 4107, for which 4 hours of such schedule fall between the hours specified in such subsection.

38 USC 4107.

#### “§ 6124. Flexible schedules; holidays

“Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee’s biweekly basic work requirement as determined under regulations prescribed by the Office of Personnel Management).

5 USC 6103,  
6104.

#### “§ 6125. Flexible schedules; time-recording devices

“Notwithstanding section 6106 of this title, the Office of Personnel Management or any agency may use recording clocks as part of programs under section 6122 of this title.

5 USC 6106.



**“§ 6126. Flexible schedules; credit hours; accumulation and compensation**

“(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 24 credit hours, and a part-time employee can accumulate not more than one-fourth of the hours in such employee’s biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

“(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee’s then current rate of basic pay for—

“(1) in the case of a full-time employee, not more than 24 credit hours accumulated by such employee, or

“(2) in the case of a part-time employee, the number of credit hours (not in excess of one-fourth of the hours in such employee’s biweekly basic work requirement) accumulated by such employee.

**“§ 6127. Compressed schedules; agencies authorized to use**

5 USC 6101.

“(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule.

“(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

“(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

“(A) except such employee from such program; or

“(B) reassign such employee to the first position within the agency—

“(i) which becomes vacant after such determination,

“(ii) which is not included within such program,

“(iii) for which such employee is qualified, and

“(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

**“§ 6128. Compressed schedules; computation of premium pay**5 USC 5542,  
5544, 5550.

“(a) The provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act (29 U.S.C. 207), or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

“(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by the applicable provisions referred to in subsection (a) of this section. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after

the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

“(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee’s basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

5 USC 5544,  
5546, 5550.

“(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee’s basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act (29 U.S.C. 207) whichever provisions are more beneficial to the employee.

5 USC 5542,  
5544.

#### “§ 6129. Administration of leave and retirement provisions

“For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

5 USC 6303,  
6304, 6307, 6323,  
6326, 8339.

#### “§ 6130. Application of programs in the case of collective bargaining agreements

“(a)(1) In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.

“(2) Employees within a unit represented by an exclusive representative shall not be included within any program under this subchapter except to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.

“(b) An agency may not participate in a flexible or compressed schedule program under a collective bargaining agreement which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.

#### “§ 6131. Criteria and review

“(a) Notwithstanding the preceding provisions of this subchapter or any collective bargaining agreement and subject to subsection (c) of this section, if the head of an agency finds that a particular flexible or compressed schedule under this subchapter has had or would have an adverse agency impact, the agency shall promptly determine not to—

“(1) establish such schedule; or

"Adverse agency impact."

"(2) continue such schedule, if the schedule has already been established.

"(b) For purposes of this section, 'adverse agency impact' means—

"(1) a reduction of the productivity of the agency;

"(2) a diminished level of services furnished to the public by the agency; or

"(3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule).

"(c)(1) This subsection shall apply in the case of any schedule covering employees in a unit represented by an exclusive representative.

Collective bargaining.

"(2)(A) If an agency and an exclusive representative reach an impasse in collective bargaining with respect to an agency determination under subsection (a)(1) not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter in this section referred to as the 'Panel').

"(B) The Panel shall promptly consider any case presented under subparagraph (A), and shall take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact.

Termination.

"(3)(A) If an agency and an exclusive representative have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this subchapter and the head of the agency determines under subsection (a)(2) to terminate a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule involved.

"(B) If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel.

"(C) The Panel shall promptly consider any case presented under subparagraph (B), and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

"(D) Any such schedule may not be terminated until—

"(i) the agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

"(ii) the date of the Panel's final decision, if an impasse arose in the reopening of the agreement under subparagraph (A) of this paragraph.

"(d) This section shall not apply with respect to flexible schedules that may be established without regard to the authority provided under this subchapter.

#### "§ 6132. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"(1) such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not

to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

“(2) such employee’s right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee’s right to request an agency determination under section 6127(b)(2) of this title.

“(b) For the purpose of subsection (a), the term ‘intimidate, threaten, or coerce’ includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

“Intimidate, threaten, or coerce.”

**“§ 6133. Regulations; technical assistance; program review**

“(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

“(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

“(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

“(A) the efficiency of Government operations;

“(B) mass transit facilities and traffic;

“(C) levels of energy consumption;

“(D) service to the public;

“(E) increased opportunities for full-time and part-time employment; and

“(F) employees’ job satisfaction and nonworklife.

“(c) With respect to employees in the Library of Congress, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Librarian of Congress.”.

Library of Congress employees.

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 6101 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

and

(2) by adding at the end thereof the following:

“SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

“Sec.

“6120. Purpose.

“6121. Definitions.

“6122. Flexible schedules; agencies authorized to use.

“6123. Flexible schedules; computation of premium pay.

“6124. Flexible schedules; holidays.

“6125. Flexible schedules; time-recording devices.

“6126. Flexible schedules; credit hours; accumulation and compensation.

“6127. Compressed schedules; agencies authorized to use.

“6128. Compressed schedules; computation of premium pay.

“6129. Administration of leave and retirement provisions.

“6130. Application of programs in the case of collective bargaining agreements.

“6131. Criteria and review.

“6132. Prohibition of coercion.

“6133. Regulations; technical assistance; program review.”.

SEC. 3. Section 3401(2) of title 5, United States Code, is amended by inserting “(or 32 to 64 hours during a biweekly pay period in the

case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title)" after "week".

5 USC 6101 note.

SEC. 4. (a) Except as provided in subsection (b), each flexible or compressed work schedule established by any agency under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in existence on the date of enactment of this Act shall be continued by the agency concerned.

Termination.

(b)(1) During the 90-day period after the date of the enactment of this Act, any flexible or compressed work schedule referred to in subsection (a) may be reviewed by the agency concerned. If, in reviewing the schedule, the agency determines in writing that—

(A) the schedule has reduced the productivity of the agency or the level of services to the public, or has increased the cost of the agency operations, and

(B) termination of the schedule will not result in an increase in the cost of the agency operations (other than a reasonable administrative cost relating to the process of terminating a schedule),

the agency shall, notwithstanding any provision of a negotiated agreement, immediately terminate such schedule and such termination shall not be subject to negotiation or to administrative review (except as the President may provide) or to judicial review.

(2) If a schedule established pursuant to a negotiated agreement is terminated under paragraph (1), either the agency or the exclusive representative concerned may, by written notice to the other party within 90 days after the date of such termination, initiate collective bargaining pertaining to the establishment of another flexible or compressed work schedule under subchapter II of chapter 61 of title 5, United States Code, which would be effective for the unexpired portion of the term of the negotiated agreement.

Effective date.  
5 USC 6101 note.

SEC. 5. The amendments made by this Act shall not be in effect after three years after the date of the enactment of this Act.

Recording  
clocks.  
5 USC 6106.

SEC. 6. (a) Section 6106 of title 5, United States Code, is amended by striking out the period and inserting in lieu thereof a comma and "except that the Bureau of Engraving and Printing may use such recording clocks."

Effective date.  
5 USC 6106 note.

(b) The amendment made by this section shall take effect October 1, 1982. Section 5 of this Act shall not apply to the amendment made by this section.

Approved July 23, 1982.

#### LEGISLATIVE HISTORY—S. 2240 (H.R. 5366):

HOUSE REPORT NO. 97-433 accompanying H.R. 5366 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 97-365 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 30, considered and passed Senate.

July 12, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 29 (1982):  
July 23, Presidential statement.

Public Law 97-222  
97th Congress

## An Act

To amend title 11, United States Code, to correct technical errors, and to clarify and make substantive changes, with respect to securities and commodities.

July 27, 1982  
[H.R. 4935]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 101 of title 11, United States Code, is amended—

Bankruptcy,  
amendment.

(1) by redesignating paragraphs (35), (36), (37), (38), (39), and (40) as paragraphs (36), (37), (38), (39), (40), and (41), respectively, and

(2) by inserting after paragraph (34) the following new paragraph:

“(35) ‘securities clearing agency’ means person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities, as defined in section 3(a)(12) of such Act (15 U.S.C. 78c(12)) for the purposes of such section 17A;”

“Securities  
clearing,  
agency.”

(b) Section 101(36)(A)(xii) of title 11, United States Code, as so redesignated, is amended by striking out “is the subject of a registration statement” and inserting in lieu thereof “is required to be the subject of a registration statement”.

(c) Section 101(36)(B)(iii) of title 11, United States Code, as so redesignated, is amended by striking out “commodity” the second place it appears.

(d) Section 101(40) of title 11, United States Code, as so redesignated, is amended to read as follows:

“(40) ‘stockbroker’ means person—

“Stockbroker.”

“(A) with respect to which there is a customer, as defined in section 741(2) of this title; and

11 USC 741.

“(B) that is engaged in the business of effecting transactions in securities—

“(i) for the account of others; or

“(ii) with members of the general public, from or for such person’s own account;”

SEC. 2. Section 103(d) of title 11, United States Code, is amended by striking out “except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant”.

SEC. 3. (a) Section 362(a) of title 11, United States Code, is amended by inserting “, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(a)(3)),” after “title” the first place it appears.

(b) Section 362(b) of title 11, United States Code, is amended by adding “, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(a)(3)),” after “title” the first place it appears.

(c) Section 362(b)(6) of title 11, United States Code, is amended to read as follows:

“(6) under subsection (a) of this section, of the setoff by a commodity broker, forward contract merchant, stockbroker, or securities clearing agency of any mutual debt and claim under or in connection with commodity contracts, as defined in section 761(4) of this title, forward contracts, or securities contracts, as defined in section 741(7) of this title, that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of commodity contracts, forward contracts, or securities contracts against cash, securities, or other property held by such commodity broker, forward contract merchant, stockbroker, or securities clearing agency to margin, guarantee, or secure commodity contracts, forward contracts, or securities contracts;”.

SEC. 4. Section 546 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a commodity broker, forward contract merchant, stockbroker, or securities clearing agency, that is made before the commencement of the case, except under section 548(a)(1) of this title.”.

SEC. 5. Section 548(d)(2)(B) of title 11, United States Code, is amended—

(1) by striking out “or forward contract merchant” and inserting in lieu thereof “, forward contract merchant, stockbroker, or securities clearing agency”;

(2) by inserting “741(5) or” after “section”;

(3) by inserting “, or settlement payment, as defined in section 741(8) of this title” after “of this title”, and

(4) by striking out “value.” and inserting in lieu thereof “value to the extent of such payment.”.

SEC. 6. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new sections:

**“§ 555. Contractual right to liquidate a securities contract**

“The exercise of a contractual right of a stockbroker or securities clearing agency to cause the liquidation of a securities contract, as defined in section 741(7), because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title unless such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency.

**“§ 556. Contractual right to liquidate a commodities contract or forward contract**

“The contractual right of a commodity broker or forward contract merchant to cause the liquidation of a commodity contract, as defined in section 761(4), or forward contract because of a condition

11 USC 761.  
*Post*, p. 237.

*Post*, p. 237.  
11 USC 761.  
*Post*, p. 237.

11 USC 544, 545,  
547, 548.

11 USC 555.

11 USC 365.

“Contractual  
right.”

11 USC 556.

11 USC 761.

of the kind specified in section 365(e)(1) of this title, and the right to a variation or maintenance margin payment received from a trustee with respect to open commodity contracts or forward contracts, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by the order of a court in any proceeding under this title. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a clearing organization or contract market or in a resolution of the governing board thereof."

11 USC 365.

"Contractual right."

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new items:

"555. Contractual right to liquidate a securities contract.

"556. Contractual right to liquidate a commodity contract or forward contract."

SEC. 7. Section 702(a)(1) of title 11, United States Code, is amended by striking out "or 726(a)(4)" and inserting in lieu thereof "726(a)(4), 752(a), 766(h), or 766(i)".

SEC. 8. Section 741 of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) by striking out "at any time", and

(B) in subparagraph (A)(ii) by inserting "of a customer" after "claim",

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (9), respectively,

(3) by inserting after paragraph (4) the following new paragraph:

"(5) 'margin payment' means payment or deposit of cash, a security, or other property, that is commonly known to the securities trade as original margin, initial margin, maintenance margin, or variation margin, or as a mark-to-market payment, or that secures an obligation of a participant in a securities clearing agency,"

"Margin payment."

(4) in paragraph (6), as so redesignated—

(A) by striking out "the aggregate of all of a customer's accounts that such customer holds" and inserting in lieu thereof "all accounts of a customer that such customer has",

(B) in subparagraph (A)(ii) by inserting "in such capacity" after "customer", and

(C) in subparagraph (B) by inserting "in such capacity" before the semicolon,

(5) by inserting after paragraph (6), as so redesignated, the following new paragraphs:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;

"(8) 'settlement payment' means a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, or any other similar payment commonly used in the securities trade; and", and

(6) in paragraph (9), as so redesignated, by striking out "Security" and inserting "Securities" in lieu thereof.

Definitions.

SEC. 9. Section 742 of title 11, United States Code, is amended by striking out "chapter" and inserting in lieu thereof "title".



SEC. 10. Section 744 of title 11, United States Code, is amended by inserting "but" after "relief,".

SEC. 11. Section 745(c) of title 11, United States Code, is amended by striking out "A" and inserting in lieu thereof "Each".

SEC. 12. (a) Section 746(a) of title 11, United States Code, is amended—

(1) by striking out "effects, with respect to cash or a security," and inserting in lieu thereof "enters into",

(2) by striking out "with respect to such cash or security" each place it appears,

(3) by striking out "such date" and inserting in lieu thereof "the date of the filing of the petition", and

(4) by striking out "effected" and inserting in lieu thereof "entered into".

(b) Section 746(b) of title 11, United States Code, is amended—

(1) by striking out "has a claim for" and inserting in lieu thereof "transferred to the debtor", and

(2) in paragraph (2) by striking out "is".

(c) The heading for section 746 of title 11, United States Code, is amended by striking out "claim" and inserting in lieu thereof "claims".

SEC. 13. Section 747 of title 11, United States Code, is amended by striking out "such claim arose" and inserting in lieu thereof "the transaction giving rise to such claim occurred".

SEC. 14. Section 749 of title 11, United States Code, is amended—

(1) by striking out "Any" and inserting in lieu thereof "(a) Except as otherwise provided in this section, any",

(2) by striking out "except" and inserting in lieu thereof "but",

(3) by inserting "such property" after "trustee, and",

(4) by striking out "549, or 724(a)" and inserting in lieu thereof "or 549", and

(5) by adding at the end thereof the following new subsection:

"(b) Notwithstanding sections 544, 545, 547, 548, and 549 of this title, the trustee may not avoid a transfer made before five days after the order for relief if such transfer is approved by the Commission by rule or order, either before or after such transfer, and if such transfer is—

"(1) a transfer of a securities contract entered into or carried by or through the debtor on behalf of a customer, and of any cash, security, or other property margining or securing such securities contract; or

"(2) the liquidation of a securities contract entered into or carried by or through the debtor on behalf of a customer.".

SEC. 15. Section 752(c) of title 11, United States Code, is amended to read as follows:

"(c) Any cash or security remaining after the liquidation of a security interest created under a security agreement made by the debtor, excluding property excluded under section 741(4)(B) of this title, shall be apportioned between the general estate and customer property in the same proportion as the general estate of the debtor and customer property were subject to such security interest."

SEC. 16. Section 761 of title 11, United States Code, is amended—

(1) in paragraph (2) by inserting "made" after "commodity contracts",

(2) in paragraph (4)—

11 USC 544, 545,  
547-549.

Cash or security,  
apportionment.

11 USC 741.

- (A) by striking out “if the debtor is” each place it appears and inserting in lieu thereof “with respect to”, and
- (B) in subparagraph (D) by striking out “cleared by the debtor” and inserting in lieu thereof “cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization”,
- (3) in paragraph (9)—
  - (A) by striking out “if the debtor is” each place it appears and inserting in lieu thereof “with respect to”,
  - (B) in subparagraph (A)—
    - (i) by striking out “the debtor” each place it appears and inserting in lieu thereof “such futures commission merchant”, and
    - (ii) by striking out “the debtor’s” and inserting in lieu thereof “such futures commission merchant’s”,
  - (C) in subparagraph (B)—
    - (i) by striking out “the debtor” each place it appears and inserting in lieu thereof “such foreign futures commission merchant”, and
    - (ii) by striking out “the debtor’s” and inserting in lieu thereof “such foreign futures commission merchant’s”,
  - (D) in subparagraph (C)—
    - (i) by striking out “the debtor” each place it appears and inserting in lieu thereof “such leverage transaction merchant”,
    - (ii) by striking out “the debtor’s” and inserting in lieu thereof “such leverage transaction merchant’s”,
    - (iii) in clause (i) by inserting “or” after the semicolon, and
    - (iv) in clause (ii) by striking out “hold” and inserting in lieu thereof “holds”,
  - (E) in subparagraph (D) by striking out “the debtor” each place it appears and inserting in lieu thereof “such clearing organization”, and
  - (F) in subparagraph (E)—
    - (i) by striking out “the debtor” each place it appears and inserting in lieu thereof “such commodity options dealer”, and
    - (ii) by striking out “the debtor’s” and inserting in lieu thereof “such commodity options dealer’s”,
- (4) in paragraph (10) by striking out “at any time”,
- (5) in paragraph (12)—
  - (A) by inserting a comma after “property”, and
  - (B) by striking out the comma after “credit”,
- (6) in paragraph (13) by striking out “217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a)” and inserting in lieu thereof “19 of the Commodity Exchange Act (7 U.S.C. 23)”,
- (7) in paragraph (14) by striking out “that is engaged”,
- (8) in paragraph (15) by striking out “a daily variation settlement payment” and inserting in lieu thereof “mark-to-market payments, settlement payments, variation payments, daily settlement payments, and final settlement payments made as adjustments to settlement prices”,
- (9) in paragraph (16) by striking out “at any time”, and

(10) in paragraph (17)—

(A) by striking out “holds” and inserting in lieu thereof “has”, and

(B) in subparagraph (A)—

(i) by inserting “the” after “(A)”, and

(ii) in clause (ii) by inserting “in such capacity” after “customer”.

SEC. 17. (a) Section 764(a) of title 11, United States Code, is amended—

(1) by striking out “except” and inserting in lieu thereof “but”,

(2) by inserting “such property” after “trustee, and”, and

(3) by striking out “is” each place it appears and inserting in lieu thereof “shall be”.

(b) Section 764(b) of title 11, United States Code, is amended by striking out “date of the filing of the petition” and inserting in lieu thereof “order for relief”.

(c) Section 764(c) of title 11, United States Code, is repealed.

SEC. 18. Section 765(b) of title 11, United States Code, is amended by striking out “commitment” and inserting in lieu thereof “commodity contract”.

SEC. 19. (a) Section 766(a) of title 11, United States Code, is amended by inserting “to such customer” after “distribution”.

(b) Section 766(b) of title 11, United States Code, is amended—

(1) by striking out “that is being actively traded as of the date of the filing of the petition”, and

(2) by inserting “the” after “rules of”.

(c) Section 766(d) of title 11, United States Code, is amended—

(1) by striking out “such amount, then the” and inserting in lieu thereof “the amount to which the customer of the debtor is entitled under subsection (h) or (i) of this section, then such”, and

(2) by inserting “then” after “trustee” the second place it appears.

(d) Section 766(h) of title 11, United States Code, is amended by adding at the end thereof the following: “Notwithstanding any other provision of this subsection, a customer net equity claim based on a proprietary account, as defined by Commission rule, regulation, or order, may not be paid either in whole or in part, directly or indirectly, out of customer property unless all other customer net equity claims have been paid in full.”.

**SEC. 20.** (a) Section 19 of the Commodity Exchange Act (7 U.S.C. 24), as added by section 302 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2673), is redesignated as section 20.

(b) Section 20(a)(3), as so redesignated, of the Commodity Exchange Act (7 U.S.C. 24) is amended by inserting before the semicolon the following: “, including the payment and allocation of margin with respect to commodity contracts not specifically identifiable to a particular customer pending their orderly liquidation”.

Approved July 27, 1982.

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**LEGISLATIVE HISTORY—H.R. 4935:**

HOUSE REPORT No. 97-420 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Feb. 9, considered and passed House.

July 13, considered and passed Senate.

Public Law 97-223  
97th Congress

## Joint Resolution

July 27, 1982  
[H.J. Res. 225]To designate the week beginning June 5, 1983, and ending June 11, 1983, as  
“Management Week in America”.

Whereas the high level of dedication of the members of the management profession has contributed significantly to the success of the American free enterprise system;

Whereas the quality of management is of crucial importance in ensuring increased production of superior goods and services at costs that permit successful competition in both domestic and world markets; and

Whereas the first week in June has been recognized as a proper time for acknowledging the essential role of the management profession in ensuring the continued strength of the American economy: Now, therefore, be it

Management  
Week in  
America.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning June 5, 1983, and ending June 11, 1983, is designated “Management Week in America”, and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 27, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 225 (S.J. Res. 73):****CONGRESSIONAL RECORD**, Vol. 128 (1982):

June 3, considered and passed House.

June 25, S.J. Res. 73, considered and passed Senate.

July 13, considered and passed Senate.

Public Law 97-224  
97th Congress

## Joint Resolution

To authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

July 28, 1982  
[S.J. Res. 95]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized and directed, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to construct the Franklin Delano Roosevelt Memorial in accordance with the general design developed by the Franklin Delano Roosevelt Memorial Commission and approved by the Commission of Fine Arts on September 20, 1979. Such memorial shall be constructed in that portion of West Potomac Park in the District of Columbia which lies between Independence Avenue and the inlet bridge, reserved for the memorial by a joint resolution approved September 1, 1959 (Public Law 86-214).

Franklin Delano  
Roosevelt  
Memorial,  
construction.  
16 USC 431 note.

SEC. 2. The Franklin Delano Roosevelt Memorial shall be operated and maintained by the Secretary of the Interior subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

43 USC 1457;  
16 USC 1-4,  
22, 43.

SEC. 3. There are authorized to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary to carry out the provisions of this joint resolution.

Appropriation  
authorization.

Approved July 28, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 95 (H.J. Res. 400):

HOUSE REPORT No. 97-556 accompanying H.J. Res. 400 (Comm. on House Administration).

SENATE REPORT No. 97-311 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 8, considered and passed Senate.

July 14, H.J. Res. 400, considered and passed House; S.J. Res. 95, passed in lieu.

Public Law 97-225  
97th Congress

## Joint Resolution

July 28, 1982  
[H.J. Res. 444]

To authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day".

Whereas the Navaho Code Talkers, a group of United States Marines, devised a communication code, based on the Navaho language, for combat use during World War II;

Whereas the development and use of this code, which was never deciphered by Japanese cryptologists, played a crucial role in the successful resolution of the war effort in the Pacific; and

Whereas this select group of Navaho Marines has never received national recognition for its unique and invaluable contribution to our military intelligence during that conflict: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating August 14, 1982, as "National Navaho Code Talkers Day", and calling upon all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

National  
Navaho Code  
Talkers Day.

Approved July 28, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 444 (S.J. Res. 133):**

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 18, considered and passed House.

May 26, S.J. Res. 133, considered and passed Senate.

July 13, considered and passed Senate.

Public Law 97-226  
97th Congress

An Act

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from \$15,000 to \$25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act.

July 28, 1982  
[H.R. 4688]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 3(a)(1) and 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241 (a)(1) and (b)(1)), are amended by striking out "\$15,000" and inserting in lieu thereof "\$25,000".*

Military  
Personnel and  
Civilian  
Employees'  
Claims Act of  
1964,  
amendments.  
31 USC 241 note.

(b) The amendments made by this Act shall apply only to claims arising on or after the date of enactment.

(c) Sections 3(a) (1) and (3) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241(a) (1) and (3)) are amended by striking "the Treasury" and inserting in lieu thereof "Transportation".

**SEC. 2. No funds may be obligated or expended pursuant to the amendments made by this Act before October 1, 1982.**

Prohibition.  
31 USC 241 note.

Approved July 28, 1982.

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**LEGISLATIVE HISTORY—H.R. 4688 (S. 1739):**

HOUSE REPORT No. 97-452 (Comm. on the Judiciary).

SENATE REPORT No. 97-482 accompanying S. 1739 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 16, 18, considered and passed House.

July 14, S. 1739, considered and passed Senate.

July 16, considered and passed Senate.



Public Law 97-227  
97th Congress

## An Act

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Aug. 2, 1982  
[H.R. 6663]

To delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.

Federal Rules of  
Civil Procedure,  
delay of effective  
date.  
28 USC 2071  
note.  
28 USC app.Effective date.  
28 USC 2071  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.

SEC. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act.

Approved August 2, 1982.

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LEGISLATIVE HISTORY—H.R. 6663:HOUSE REPORT No. 97-662 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

July 26, considered and passed House.

July 28, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 31 (1982):  
Aug. 2, Presidential statement.

Public Law 97-228  
97th Congress

Joint Resolution

Authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week".

Aug. 2, 1982  
[H.J. Res. 526]

Whereas countless valiant Americans have been wounded in combat while defending our great Nation against armed enemies and have received the Purple Heart Medal in recognition of their sacrifices for our country; and

Whereas, through this service to our Nation and because of the nature of their injuries, these Purple Heart recipients will bear their battle wounds for life; and

Whereas August 7, 1982, marks the two hundredth anniversary of General George Washington's order first establishing the Purple Heart Medal; and

Whereas it is most appropriate that this special group of veterans be recognized for their outstanding contributions to our national security and welfare in this special anniversary year: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week" in recognition of the countless contributions our combat wounded Purple Heart recipients have made to the security and welfare of the United States, and calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

National Purple  
Heart Week.

Approved August 2, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 526 (S.J. Res. 207):**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 24, considered and passed House.  
July 28, considered and passed Senate.

Public Law 97-229  
97th Congress

An Act

Aug. 3, 1982  
[S. 2332]

To amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Energy  
Emergency  
Preparedness  
Act of 1982.  
42 USC 6202  
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Emergency Preparedness Act of 1982".

SEC. 2. INTERNATIONAL ENERGY PROGRAM AMENDMENTS.

(a) EXTENSION.—Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "August 1, 1982" and inserting in lieu thereof "at midnight December 31, 1983".

(b) LIMITATIONS.—(1) Section 251 of the Energy Policy and Conservation Act (42 U.S.C. 6271) is amended by adding at the end thereof the following new subsection:

"(e) No rule under this section may be put into effect unless—  
"(1) an international energy supply emergency, as defined in the first sentence of section 252(1)(1), is in effect; and  
"(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program."

(2) Section 252 of such Act (42 U.S.C. 6272) is amended by adding at the end thereof the following new subsection:

"(m) The authority granted by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy program."

SEC. 3. ENERGY EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Title II of the Energy Policy and Conservation Act, relating to standby energy authorities, is amended by adding at the end thereof the following new part:

"PART C—ENERGY EMERGENCY PREPAREDNESS

"CONGRESSIONAL FINDINGS, POLICY, AND PURPOSE

"SEC. 271. (a) FINDINGS.—The Congress finds that—

"(1) a shortage of petroleum products caused by reductions in imports of petroleum products may occur at any time;

"(2) such a shortage may be sufficiently large to cause severe economic dislocations and hardships, or constitute a serious threat to public health, safety, and welfare; and

"(3) prior to the occurrence of such a shortage, the Federal Government has a responsibility to be prepared to mitigate the

*Ante*, p. 196.

42 USC 6281.

adverse impacts of such a shortage as a supplement to reliance on free market pricing and allocation of available petroleum product supplies.

“(b) **POLICY.**—The Congress declares that it shall be the policy of the United States that the Federal Government shall be prepared prior to any shortage of petroleum products to respond to energy emergencies, pursuant to authorities under provisions of law other than this part, as a supplement to reliance on the free market to mitigate the adverse impacts of a shortage of petroleum products on public health, safety, and welfare.

“(c) **PURPOSE.**—The purpose of this part is to carry out the policy in subsection (b) by providing for the preparation of comprehensive energy emergency response procedures to be available for use by the President under authorities contained in any provision of law other than this part.

#### “PREPARATION FOR PETROLEUM SUPPLY INTERRUPTIONS

“**SEC. 272. (a) DESCRIPTION OF AVAILABLE LEGAL AUTHORITIES.**—(1) The President shall submit to the Congress no later than November 15, 1982, a memorandum of law which describes the nature and extent of the authorities available to the President under existing law to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

Memorandum of law, submitted to Congress.  
42 USC 6282.

“(2) The memorandum of law required by paragraph (1) shall be prepared by the Attorney General, in consultation with the Secretary of Energy.

“(3) The memorandum of law submitted to the Congress pursuant to this subsection shall—

“(A) include the following subjects—

“(i) activities of the United States in support of the international energy program and the December 10, 1981, International Energy Agency agreement entitled ‘Decision on Preparation for Future Supply Disruptions’ including—

“(I) the National Emergency Sharing Organization;

“(II) emergency sharing systems; and

“(III) the supply right project;

“(ii) activities of the United States pursuant to its energy emergency preparedness obligations to the North Atlantic Treaty Organization;

“(iii) development and use of the Strategic Petroleum Reserve;

“(iv) Government incentives to encourage private petroleum product stocks;

“(v) reactivation of the following Executive Manpower Reserves:

“(I) the Emergency Electric Power Reserve;

“(II) the Emergency Petroleum and Gas Reserve; and

“(III) the Emergency Solid Fuels Reserve;

“(vi) energy emergency response management in coordination with State and local governments; and

“(vii) emergency public information activities; and

“(B) distinguish among—

“(i) situations involving limited or general war, international tensions that threaten national security, and other Presidentially declared emergencies;

“(ii) events resulting in activation of the international energy program; and

“(iii) events or situations less severe than those described in clauses (i) and (ii).

“(b) COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES.—(1) Not later than December 31, 1982, the President shall submit to the Congress comprehensive energy emergency response procedures for implementation, in whole or in part, of the authorities described under subsection (a).

“(2) The comprehensive energy emergency response procedures shall—

“(A) describe the various options the President would consider using to implement the authorities described in the memorandum of law submitted under subsection (a) to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States, including a description of the likely sequence in which such options would be taken;

“(B) specify how appropriate governmental actions in response to international and domestic energy shortages would be selected and implemented under such options, particularly which official or governmental entity would select and implement such actions, and what procedures would be used in doing so; and

“(C) recommend any additional statutory authority the President considers necessary to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

“(c) DISCLAIMERS.—(1) Nothing in this part, or in the comprehensive energy emergency response procedures submitted pursuant to subsection (b), shall—

“(A) limit the authority of the President under any provision of law to respond to a reduction in the amount of petroleum products available to the United States; or

“(B) grant any authority to the President to respond to a reduction in the amount of petroleum products available to the United States.

“(2) No State law or State program in effect on the date of the enactment of this part, or which may become effective thereafter, shall be construed to be superseded by any provision of this part.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act is amended by adding after the item relating to section 255 the following new items:

“PART C—ENERGY EMERGENCY PREPAREDNESS

“Sec. 271. Congressional findings, policy, and purpose.

“Sec. 272. Preparation for petroleum supply interruptions.”.

SEC. 4. STRATEGIC PETROLEUM RESERVE AMENDMENTS.

(a) REQUIRED RATE FOR FILLING RESERVE.—

(1) IN GENERAL.—Subsection (c) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

“(c)(1)(A) The President shall immediately undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities, to the extent funds are available pursuant to section 167 (b)(2) and (b)(3), at a level sufficient to assure that the

petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least the minimum required fill rate until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels.

“(B) Subject to subparagraph (C), the minimum required fill rate shall be 300,000 barrels per day for purposes of subparagraph (A), unless there is in effect a finding by the President in his discretion for good cause that compliance with such rate would not be in the national interest. Any finding by the President under this subparagraph takes effect on the date such finding is transmitted to the Congress and ceases to have effect at the end of the fiscal year in which such finding was made. Any such finding transmitted to the Congress shall include a statement of the facts upon which the finding is based. Any such finding shall not be subject to judicial review.

“(C) The minimum required fill rate shall be 220,000 barrels per day for purposes of subparagraph (A) during the period in which any finding by the President under subparagraph (B) is in effect.

“(D)(i) If funds are available in any given fiscal year after fiscal year 1982 to achieve an average annual fill rate higher than the minimum required fill rate in effect under subparagraph (C), the minimum required fill rate shall be the highest practicable fill rate achievable, subject to the availability of appropriated funds.

“(ii) The Impoundment Control Act of 1974 (31 U.S.C. 1400 and following) shall apply to funds made available under section 167 (b) and (e).

42 USC 6247;  
*Infra.*

“(2) After the Strategic Petroleum Reserve reaches a level of 500,000,000 barrels, the President shall immediately seek to undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1982.

42 USC 6240  
note.

(b) INTERIM STORAGE.—

(1) AUTHORITY FOR IMPLEMENTATION.—Section 159(f) of the Energy Policy and Conservation Act (42 U.S.C. 6239(f)) is amended by striking out “and” at the end of paragraph (3), by striking out the comma at the end of paragraph (4) and inserting “; and” in lieu thereof, and by inserting after paragraph (4) the following new paragraph:

“(5) the storage of petroleum products in interim storage facilities.”

(2) USE OF SPR PETROLEUM ACCOUNT; CONFORMING AMENDMENTS.—(A) Section 167 of such Act (95 Stat. 619; to be codified at 42 U.S.C. 6247) is amended by adding at the end thereof the following:

“(e)(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the Strategic Petroleum Reserve.

“(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such

fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.”.

(B) Section 159 of such Act (42 U.S.C. 6239) is amended by adding at the end thereof the following new subsection:

“(h)(1) No amendment to the Strategic Petroleum Reserve Plan relating to interim storage facilities shall be required prior to the storage of petroleum products in such facilities.

“(2) Petroleum products stored in interim storage facilities pursuant to this part shall be considered to be in storage in the Reserve.

“(3)(A) No action relating to the storage of petroleum products in existing interim storage facilities in the Reserve shall be deemed to be ‘a major Federal action significantly affecting the quality of the human environment’ within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

“(B) For purposes of this paragraph, an interim storage facility shall be considered to be an existing interim storage facility if it—

“(i) is in existence on July 1, 1982;

“(ii) was constructed in a manner appropriate for storing petroleum products; and

“(iii) is not modified after July 1, 1982, in any manner which substantially increases the storage capacity of the facility. Any modification of such facility may not include replacement or reconstruction.

“Interim storage facilities.”

“(4) The term ‘interim storage facilities’, when used in this part, may include any vessel which meets the applicable requirements under this part.”.

(C) Section 160(e)(4) of such Act (42 U.S.C. 6240(e)(4)) is amended by striking out “crude oil” and inserting in lieu thereof “petroleum product”.

42 USC 6234  
note.

(c) STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN.—On or before December 1, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act. Such plan shall be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan. Such amendment shall take effect on the date it is transmitted to the Congress and shall not be subject to section 159(e) of such Act relating to Congressional review. Subsequent amendments to such plan shall be in accordance with subsections (d) and (e) of such section 159.

#### SEC. 5. CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION.

(a) IN GENERAL.—Part A of title V of the Energy Policy and Conservation Act (42 U.S.C. 6381 and following) is amended by adding at the end thereof the following new section:

##### “PETROLEUM PRODUCT INFORMATION

42 USC 6385.

“SEC. 507. The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply,

and distribution of petroleum products by product category at the wholesale and retail levels, on a State-by-State basis, which was collected as of September 1, 1981, by the Energy Information Administration.”.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting the following new item after the item relating to section 506:

“Sec. 507. Petroleum product information.”.

**SEC. 6. REPORTS TO CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS.**

42 USC 6245  
note.

(a) **IMPACT ANALYSIS.**—(1) The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall—

Consultation  
with other  
Federal  
agencies.

(A) examine the equity and efficiency of such reliance,

(B) distinguish between the impacts of such reliance on various categories of business (including small business and agriculture) and on households of different income levels,

(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

(D) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

(2) Within one year after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection, including a detailed step-by-step description of the procedures by which the policies specified in paragraph (1)(C) would be accomplished in an emergency, along with such recommendations as the Secretary of Energy deems appropriate.

(b) **STRATEGIC PETROLEUM RESERVE DRAWDOWN AND DISTRIBUTION REPORT.**—The President shall prepare and transmit to the Congress, at the time he transmits the drawdown plan pursuant to section 4(c), a report containing—

(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy.



Submittal  
to Congress.

The description of each strategy under paragraph (2) shall include an explanation of the methods which would likely be used to determine the price and distribution of petroleum products from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such petroleum products under the strategy.

(c) **REGIONAL RESERVE REPORT.**—The President or his delegate shall submit to the Congress no later than December 31, 1982, a report regarding the actions taken to comply with the provisions of section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237). Such report shall include an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves, including—

(1) an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in section 157(a) of such Act;

(2) the comparative costs of creating and operating Regional Petroleum Reserves for such regions as compared to the costs of continuing current plans for the Strategic Petroleum Reserve; and

(3) a list of potential sites for Regional Petroleum Reserves.

(d) **STRATEGIC ALCOHOL FUEL RESERVE REPORT.**—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

(e) **MEANING OF TERMS.**—As used in this section, the terms “international energy program”, “petroleum product”, “Reserve”, “severe energy supply interruption”, and “Strategic Petroleum Reserve” have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232).

Approved August 3, 1982.

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**LEGISLATIVE HISTORY—S. 2332 (H.R. 6337):**

**HOUSE REPORTS:** No. 97-585, pt. 1 (Comm. on Energy and Commerce), 97-585, pt. 2 (Comm. on Merchant Marine and Fisheries) both accompanying H.R. 6337; and 97-663 (Comm. of Conference).

**SENATE REPORT** No. 97-393 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

May 26, considered and passed Senate.

June 23, H.R. 6337 considered and passed House; passage vacated and S. 2332, amended, passed in lieu.

July 29, House agreed to conference report.

July 30, Senate agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 18, No. 31 (1982):

Aug. 3, Presidential statement.

Public Law 97-230  
97th Congress

An Act

To amend title 28, United States Code, to modify the bar membership requirements for United States magistrates.

Aug. 6, 1982  
[S. 2706]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 631(b)(1) of title 28, United States Code, is amended by striking out “He is, and has been for at least five years, a member” and inserting in lieu thereof the following: “He has been for at least five years a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States, and he is a member”.

U.S.  
magistrates.  
Bar membership  
requirements,  
modification.

Approved August 6, 1982.

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LEGISLATIVE HISTORY—S. 2706:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 30, considered and passed Senate.  
July 23, considered and passed House.

Public Law 97-231  
97th Congress

An Act

Aug. 9, 1982  
[S. 2317]

To recognize the organization known as the National Federation of Music Clubs.

National  
Federation of  
Music Clubs.  
Charter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

CHARTER

36 USC 2001.

SECTION 1. The National Federation of Music Clubs, organized and incorporated under the laws of the State of Illinois, is hereby recognized as such and is granted a charter.

POWERS

36 USC 2002.

SEC. 2. The National Federation of Music Clubs (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 2003.

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and also shall be—

(1) to bring into working relations with one another, music clubs and other musical organizations and individuals directly or indirectly associated with musical activity for the purpose of developing and maintaining high musical standards;

(2) to aid and encourage musical education; and

(3) to promote American music and American artists throughout the United States of America and the world.

The corporation shall function as a patriotic, civic, and historical organization as authorized by the laws of the State or States wherein it is incorporated.

SERVICE OF PROCESS

36 USC 2004.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

36 USC 2005.

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

**BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES**

**SEC. 6.** The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated. 36 USC 2006.

**OFFICERS OF CORPORATION**

**SEC. 7.** The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated. 36 USC 2007.

**RESTRICTIONS**

**SEC. 8. (a)** No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 2008.

**(b)** The corporation shall not make any loan to any officer, director, or employee of the corporation.

**(c)** The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

**(d)** The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

**(e)** The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

**(f)** The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Illinois.

**LIABILITY**

**SEC. 9.** The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2009.

**BOOKS AND RECORDS; INSPECTION**

**SEC. 10.** The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 2010.

**AUDIT OF FINANCIAL TRANSACTIONS**

**SEC. 11.** The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal

law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(53) National Federation of Music Clubs."

#### ANNUAL REPORT

- 36 USC 2011. SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

#### RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

- 36 USC 2012. SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

#### DEFINITION OF "STATE"

- 36 USC 2013. SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

#### TAX-EXEMPT STATUS

- 36 USC 2014. SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

#### TERMINATION

- 36 USC 2015. SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved August 9, 1982.

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#### LEGISLATIVE HISTORY—S. 2317:

HOUSE REPORT No. 97-644 (Comm. on the Judiciary).  
SENATE REPORT No. 97-394 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 24, considered and passed Senate.  
July 20, considered and passed House, amended.  
July 27, Senate concurred in House amendments.

Public Law 97-232  
97th Congress

## An Act

To provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

Aug. 9, 1982  
[S. 2218]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3 of Public Law 92-592 is amended by adding at the end thereof the following new subsection:

“(i) Notwithstanding the provisions of subsection (a) of this section, the United States hereby conveys to the city of New York all rights to the methane gas and associated byproducts resulting from solid waste decomposition on the area within the Jamaica Bay Unit known as the Fountain Avenue Landfill site, subject to payments to the United States of 50 per centum of the revenue received by the city of New York, if any, from the development of such rights. The Secretary shall grant to the City, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: *Provided*, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development, or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further purposes of the recreation area. All such payments to the United States shall be credited to the appropriations of the National Park Service for the development and improvement of Gateway National Recreation Area.”

SEC. 2. Subsection 4(a) of the Act of October 27, 1972 (86 Stat. 1308), is amended by changing “ten years” in the second sentence to “twenty years”.

Approved August 9, 1982.

Gateway  
National  
Recreation Area,  
improvement.  
16 USC 460cc-2.  
Fountain  
Avenue Landfill  
site.  
Conveyance  
rights.

Funding.

16 USC 460cc-3.

#### LEGISLATIVE HISTORY—S. 2218:

HOUSE REPORT No. 97-677 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-455 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 9, considered and passed Senate.  
Aug. 2, considered and passed House.

Public Law 97-233  
97th Congress

## Joint Resolution

Aug. 10, 1982

[H.J. Res. 494]

With regard to Presidential certifications on conditions in El Salvador.

El Salvador,  
Presidential  
certifications on  
conditions.  
95 Stat. 1555.  
22 USC 2370  
note.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 728(e) of the International Security and Development Cooperation Act of 1981 is amended by adding at the end thereof the following: "The second certification required under this section may be made only if it includes a determination by the President that the Government of El Salvador (1) has made good faith efforts since the first such certification was made to investigate the murders of those six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981."

Approved August 10, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 494 (S.J. Res. 208):

SENATE REPORT No. 97-500 accompanying S.J. Res. 208 (Comm. on Foreign Relations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
July 12, 13, considered and passed House.  
July 27, considered and passed Senate.

Public Law 97-234  
97th Congress

An Act

To recognize the organization known as American Ex-Prisoners of War.

Aug. 10, 1982

[H.R. 5380]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

American Ex-  
Prisoners of  
War.  
Charter.

CHARTER

36 USC 2101.

SECTION 1. American Ex-Prisoners of War, organized and incorporated under the Washington Nonprofit Corporation Act (Wash. Rev. Code Ann. 24.03.005) of the State of Washington by Charles Morgan, Junior, San Antonio, Texas; Edward Fisher, Fairhaven, Massachusetts; Charles Miller, La Jolla, California; C. Earl Derrington, Jackson, Mississippi; Edward Parks, Middleboro, Massachusetts; Henry Goodall, Houston, Texas; Stanley Sommers, Marshfield, Wisconsin; Edward Allen, N. Olmstead, Ohio; Irving Rittenberg, Brookline, Massachusetts; Edgar Van Valkenberg, Saint Petersburg, Florida; W. C. Musten, Winston-Salem, North Carolina; Clifford Omtvedt, Eau Claire, Wisconsin; Orlo Natvig, Charles City, Iowa; H. C. Griffin, Houston, Texas; Milton Moore, El Paso, Texas; Marie Harre, Fairway, Kansas; Alfred Galloway, Seattle, Washington; Reginald Reed, Bremerton, Washington; Ralph Moulis, Tucson, Arizona; Betty Rodriguez, Albuquerque, New Mexico; Randall Briere, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Harold Page, Buckley, Washington; D. C. Wimberly, Springhill, Louisiana; Albert Braun, Phoenix, Arizona; Melvin Madero, San Diego, California; Tillman Rutledge, San Antonio, Texas; Benson Guyton, Decatur, Alabama; Frank Hawkins, Oklahoma City, Oklahoma; Melvin Routt, Tracy, California; John Romine, Muskogee, Oklahoma; Christopher Morgan, Old Bridge, New Jersey; Allen Smith, Diana, Texas; and John G. Flynn, San Antonio, Texas, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. American Ex-Prisoners of War (hereafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

36 USC 2102.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

36 USC 2103.

- (1) encouragement of fraternity for the common good;
- (2) fostering patriotism and loyalty;
- (3) assistance to widows and orphans of deceased ex-prisoners of war;



- (4) assistance to ex-prisoners of war who have been injured or handicapped as a result of their service;
- (5) maintenance of allegiance to the United States of America;
- (6) preservation and defense of the United States from all of her enemies; and
- (7) maintenance of historical records.

#### SERVICE OF PROCESS

- 36 USC 2104. SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

#### MEMBERSHIP

- 36 USC 2105. SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

#### BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

- 36 USC 2106. SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

#### OFFICERS OF CORPORATION

- 36 USC 2107. SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

#### RESTRICTIONS

- 36 USC 2108. SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.
- (b) The corporation shall not make any loan to any officer, director, or employee of the corporation.
- (c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.
- (d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.
- (e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.
- (f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Washington.

## LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2109.

## BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 2110.

## AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(57) American Ex-Prisoners of War."

## ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document. 36 USC 2111.

## RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 2112.

## DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 2113.

## TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2114.

## EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use and to allow or refuse to others the use of the terms "American Ex-Prisoners of War", and the official American Ex-Prisoners of War emblem or any colorable simulation thereof. No powers or 36 USC 2115.

privileges hereby granted shall, however, interfere or conflict with established or vested rights.

TERMINATION

36 USC 2116.

SEC. 17. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved August 10, 1982.

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LEGISLATIVE HISTORY—H.R. 5380 (S. 2174):

HOUSE REPORT No. 97-643 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 20, considered and passed House.

July 28, considered and passed Senate.

Public Law 97-235  
97th Congress

Joint Resolution

To authorize and request the President to designate "National Family Week".

Aug. 16, 1982

[S.J. Res. 190]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 21 through 27, 1982, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.*

National Family  
Week.

Approved August 16, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 190:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 26, considered and passed Senate.

Aug. 5, considered and passed House.

Public Law 97-236  
97th Congress

## Joint Resolution

Aug. 17, 1982  
[S.J. Res. 183]

To authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week".

Lupus  
Awareness  
Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 17, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 183:CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 24, considered and passed Senate.  
Aug. 5, considered and passed House.

Public Law 97-237  
97th Congress

Joint Resolution

Concerning the successful completion of the test flight phase of the Space Shuttle program.

Aug. 20, 1982  
[H.J. Res. 541]

Whereas when the Space Shuttle Columbia flew through a blazing re-entry and skimmed to a perfect landing on the 4th of July 1982, at Edwards Air Force Base, California, the National Aeronautics and Space Administration successfully completed the test flight phase of the Space Shuttle program and began a new era of operational Space Shuttle missions;

Whereas in four test missions, the Space Shuttle Columbia, a reusable spaceship designed to provide routine space travel for a wide variety of scientific, commercial, and military payloads at reduced costs and with a high reliability of success, lived up to its promise as the most advanced spacecraft in the world;

Whereas in four test missions, the Columbia was lifted from Earth, orbited in the vacuum of space like a satellite, operated a variety of scientific experiments, tested the capability of the remote manipulator system to deploy satellites in orbit and to retrieve satellites, descended into the Earth's atmosphere, was piloted by astronauts like a conventional winged airplane, and was landed at Edwards Air Force Base, California, and at White Sands missile range, New Mexico;

Whereas the Space Shuttle Columbia, the newly completed Space Shuttle Challenger, and the sister Shuttles Discovery and Atlantis, now under construction, will be able to fly repeatedly back and forth from space as an operational space transportation system;

Whereas the Space Shuttle orbiters will accommodate an unprecedented variety of payloads including a fully equipped scientific laboratory (Spacelab) provided by the European space agency, underscoring the commitment of the United States to international cooperation in space activities;

Whereas using the unique qualities of the space environment (weightlessness and a near perfect vacuum) the Space Shuttle orbiters will be used for experiments to produce special alloys, metals, glasses, crystals, and pharmaceuticals that cannot be performed on Earth;

Whereas the Space Shuttle orbiters will place in orbit satellites to observe the Earth's weather, provide improved communications, discover new mineral resources, monitor crop and timber yields, help United States forces to navigate, and monitor arms control agreements;

Whereas the Space Shuttle orbiters will also place in orbit the most powerful space telescope and will launch scientific probes to explore the planets;

Whereas the Space Shuttle program is a national enterprise, geographically and technologically, requiring tens of thousands of skilled workers to design, develop, test and evaluate the various Space Shuttle components;

Whereas the Space Shuttle program has been judged by independent research organizations to have a positive effect on the national economy, creating jobs, reducing inflationary pressures, and forwarding the development of advanced technologies; and

Whereas the Space Shuttle program is a source of great national pride and the United States now holds world leadership in its proven ability to operate a reusable Space Shuttle: Now, therefore, be it

Space Shuttle,  
test flight period.  
Successful  
completion.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress of the United States congratulates the National Aeronautics and Space Administration, the members of the Astronaut Corps, prime contractor Rockwell International, associate contractors Martin Marietta and Thiokol, the thousands of Shuttle subcontractors throughout the United States, and the tens of thousands of dedicated Space Shuttle workers who contributed to the successful completion of the Space Shuttle test flight period and to the entry of our Nation into a promising new era of spaceflight for the benefit of the people of the United States and all mankind.

Approved August 20, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 541:

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 26, considered and passed House.

Aug. 4, considered and passed Senate, amended.

Aug. 10, House concurred in Senate amendments.

Public Law 97-238  
97th Congress

An Act

To direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Kentucky, so that such lands may be used for cemetery purposes.

Aug. 20, 1982  
[S. 2154]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, with respect to 1.52 acres of land in Christian County, Kentucky, described in section 2 of this Act, the Secretary of Agriculture, on behalf of the United States, shall release the Commonwealth of Kentucky, without consideration, from the condition contained in a deed dated July 9, 1954, between the United States and the Commonwealth of Kentucky granting certain lands in Christian County, Kentucky, of which the described lands are a part, that requires that the lands so granted be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

Christian  
County, Ky.  
Reversionary  
land interest,  
release.

SEC. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle Church and Cemetery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees and 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109;



thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

Approved August 20, 1982.

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**LEGISLATIVE HISTORY—S. 2154 (H.R. 6195):**

HOUSE REPORT No. 97-700 accompanying H.R. 6195 (Comm. on Agriculture).  
SENATE REPORT No. 97-333 (Comm. on Agriculture, Nutrition, and Forestry).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

May 5, considered and passed Senate.

Aug. 9, H.R. 6195 considered and passed House; S. 2154, passed in lieu.

Public Law 97-239  
97th Congress

Joint Resolution

To provide for the designation of April 17 to April 23, 1983, as "National Coin Week".

Aug. 20, 1982  
[H.J. Res. 516]

Whereas coin collecting is a hobby enjoyed by millions of Americans; and

Whereas coin collecting is an endeavor that has educational and cultural value; and

Whereas coin collecting promotes greater understanding of our history and heritage; and

Whereas coin collecting contributes to the preservation of material of historical significance: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating April 17 to April 23, 1983, as "National Coin Week", and calling on the people of the United States to observe such week with appropriate activities and ceremonies.

National Coin  
Week.

Approved August 20, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 516:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 5, considered and passed House.

Aug. 12, considered and passed Senate.

Public Law 97-240  
97th Congress

Joint Resolution

Aug. 20, 1982  
[S.J. Res. 123]

Authorizing and requesting the President to proclaim "National Disabled Veterans Week".

Whereas there are two million three hundred thousand veterans with disabilities resulting from their service in the United States Armed Forces;

Whereas these disabled veterans have sacrificed their well-being in the service of their country;

Whereas many of these disabled veterans endure severe disabilities, such as loss of limb, paralysis, blindness, deafness, and delayed-stress syndrome and other mental disorders;

Whereas these disabled veterans consistently experience inordinately high rates of joblessness; and

Whereas these disabled veterans have made vital contributions to the national security and welfare by helping our Nation preserve its freedom, strength, and prosperity: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating the week of November 7, 1982, as "National Disabled Veterans Week", in recognition of the contributions that veterans with service-connected disabilities have made to the national security and welfare of the United States and calling upon government agencies at the Federal, State, and local levels and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

National  
Disabled  
Veterans Week.

Approved August 20, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 123:

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 11, considered and passed Senate.  
Vol. 128 (1982): Aug. 5, considered and passed House.

Public Law 97-241  
97th Congress

An Act

To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

Aug. 24, 1982  
[S. 1193]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the “Department of State Authorization Act, Fiscal Years 1982 and 1983”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts:

(1) For “Administration of Foreign Affairs”, \$1,245,637,000 for the fiscal year 1982 and \$1,248,059,000 for the fiscal year 1983.

(2) For “International Organizations and Conferences”, \$503,462,000 for the fiscal year 1982 and \$514,436,000 for the fiscal year 1983.

(3) For “International Commissions”, \$19,808,000 for the fiscal year 1982 and \$22,432,000 for the fiscal year 1983.

(4) For “Migration and Refugee Assistance”, \$504,100,000 for the fiscal year 1982 and \$460,000,000 for the fiscal year 1983.

REOPENING CERTAIN UNITED STATES CONSULATES

SEC. 103. (a) Notwithstanding any other provision of law, \$400,000 of the funds available for the fiscal year 1982 for “Salaries and Expenses” of the Department of State are hereby reprogramed for, and shall be used by the Department for, the expenses of operating and maintaining the consulates specified in subsection (c) of this section.

(b) None of the funds made available under this or any other Act for “Administration of Foreign Affairs” may be used for the establishment or operation of any United States consulate that did not exist on the date of enactment of this Act (other than the consulates specified in subsection (c)) until all the United States consulates specified in subsection (c) have been reopened as required by section 108 of the Department of State Authorization Act, Fiscal Years 1980 and 1981.

(c) The consulates referred to in subsections (a) and (b) of this section are the consulates in the following locations: Turin, Italy;

Department of State, the International Communication Agency, and the Board for International Broadcasting, appropriation authorizations. Department of State Authorization Act, Fiscal Years 1982 and 1983.

22 USC 2656 note.

22 USC 2656 note.  
22 USC 2656 note.

Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

**RESTRICTIONS RELATING TO PALESTINIAN RIGHTS UNITS AND PROJECTS PROVIDING POLITICAL BENEFITS TO THE PALESTINE LIBERATION ORGANIZATION**

SEC. 104. (a) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity); and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity); and

(3) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(c) The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing political benefit to the Palestine Liberation Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies, for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits to the Palestinian people.

**PAYMENT OF ASSESSED CONTRIBUTIONS FOR CERTAIN INTERNATIONAL ORGANIZATIONS**

SEC. 105. (a) Funds authorized to be appropriated for the fiscal year 1982 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1982 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

Budget review.  
22 USC 287e  
note.

Report to  
Congress.

(b) Funds authorized to be appropriated for the fiscal year 1983 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1983 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(c) For purposes of this section, the term "United States contribution" means the United States assessed contribution to the budget of the Organization of American States, the Pan American Health Organization, or the Inter-American Institute for Cooperation on Agriculture, as the case may be, plus amounts required to be paid by the United States or minus amounts credited to the United States (as appropriate) under that organization's tax equalization program.

"United States contribution."

#### INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 106. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$1,500,000 shall be available for the fiscal year 1982 and \$1,500,000 shall be available for the fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for "political" detainees.

#### ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 107. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$12,500,000 for the fiscal year 1982 and \$16,875,000 for the fiscal year 1983 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics, from Communist countries in Eastern Europe, and from other countries.

#### UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SEC. 108. (a) The Congress finds that—

(1) a free press is vital to the functioning of free governments;

(2) Article 19 of the Universal Declaration of Human Rights provides for the right to freedom of expression and to "seek, receive, and impart information and ideas through any media and regardless of frontiers";

(3) the Constitution of the United Nations Educational, Scientific and Cultural Organization provides for the promotion of "the free flow of ideas by word and image";

(4) the signatories of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975) pledged themselves "to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State"; and

(5) government censorship, domination, or suppression of a free press is a danger to free men and women everywhere.

(b) Therefore, it is the sense of the Congress that the United Nations Educational, Scientific and Cultural Organization should

cease efforts to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

(c) The Congress opposes efforts by some countries to control access to and dissemination of news.

Report to  
Congress.

(d) The President shall evaluate and, not later than six months after the date of enactment of this Act, shall report to the Congress his assessment of—

(1) the extent to which United States financial contributions to the United Nations Educational, Scientific and Cultural Organization, and the extent to which the programs and activities of that Organization, serve the national interests of the United States;

(2) the programs and activities of the United Nations Educational, Scientific and Cultural Organization, especially its programs and activities in the communications sector; and

(3) the quality of United States participation in the United Nations Educational, Scientific and Cultural Organization, including the quality of United States diplomatic efforts with respect to that Organization, the quality of United States representation in the Secretariat of that Organization, and the quality of recruitment of United States citizens to be employed by that Organization.

Such report should include the President's recommendations regarding any improvements which should be made in the quality and substance of United States representation in the United Nations Educational, Scientific and Cultural Organization.

#### RESTRICTION ON CONTRIBUTIONS TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

22 USC 287r  
note.  
*Ante*, p. 273.

SEC. 109. (a) None of the funds authorized to be appropriated by paragraph (2) of section 102 of this Act or by any other Act for "International Organizations and Conferences" may be used for payment by the United States of its contribution toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if that organization implements any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or among countries, or to impose mandatory codes of journalistic practice or ethics.

Report to  
Congress.

(b) Not later than February 1 of each year, the Secretary of State shall report to the Congress with respect to whether the United Nations Educational, Scientific and Cultural Organization has taken any action described in subsection (a) of this section.

#### BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

SEC. 110. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$3,700,000 for the fiscal year 1982 and \$3,700,000 for the fiscal year 1983 for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

## ASIA FOUNDATION

SEC. 111. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$4,500,000 for the fiscal year 1982 and \$4,500,000 for the fiscal year 1983 for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Amounts appropriated under this section shall be made available to the Asia Foundation by the Secretary of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Secretary and the Foundation.

## BUYING POWER MAINTENANCE

SEC. 112. (a) Section 24(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)) is amended to read as follows:

"(b)(1) In order to maintain the levels of program activity for the Department of State provided for each fiscal year by the annual authorizing legislation, there are authorized to be appropriated for the Department of State such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the earlier of—

"(A) the calendar year which ended during the fiscal year preceding such fiscal year, or

"(B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.

"(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

Buying Power  
Maintenance  
account.

"(3) In order to eliminate substantial gains to the approved levels of overseas operations for the Department of State, the Secretary of State shall transfer to the Buying Power Maintenance account such amounts in any appropriation account under the heading 'Administration of Foreign Affairs' as the Secretary determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

"(4) In order to offset adverse fluctuations in foreign currency exchange rates or overseas wage and price changes, the Secretary of State may transfer from the Buying Power Maintenance account to any appropriation account under the heading 'Administration of Foreign Affairs' such amounts as the Secretary determines are necessary to maintain the approved level of operations under that appropriation account.

Transfer of  
funds.

"(5) Funds transferred by the Secretary of State from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Secretary from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

"(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctu-



ations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.”.

(b) Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended—

(1) by inserting “, or overseas wage and price changes,” immediately after “foreign currency exchange rates”; and

(2) by striking out “preceding fiscal year” and inserting in lieu thereof “earlier of (1) the calendar year which ended during the fiscal year preceding such fiscal year, or (2) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted”.

22 USC 2877.

(c) Section 8(a)(2) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2287(a)(2)) is amended—

(1) in the first sentence, by inserting “, or overseas wage and price changes,” immediately after “foreign currency exchange rates”; and

(2) in the first sentence, by striking out “preceding fiscal year” and inserting in lieu thereof “earlier of (A) the calendar year which ended during the fiscal year preceding such fiscal year, or (B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted”; and

(3) in the second sentence, by inserting “or such changes” immediately after “such fluctuations”.

#### PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

SEC. 113. Paragraph (1) of the first section of the joint resolution entitled “Joint Resolution to provide for membership of the United States in the Pan American Institute of Geography and History; and to authorize the President to extend an invitation for the next general assembly of the institute to meet in the United States in 1935, and to provide an appropriation for expenses thereof”, approved August 2, 1935 (22 U.S.C. 273), is amended by striking out “, not to exceed \$200,000 annually,”.

#### INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 114. Section 2 of the joint resolution entitled “Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor”, approved December 30, 1963 (22 U.S.C. 269g-1), is amended by striking out “, except that” and all that follows through “that year”.

#### PAN AMERICAN RAILWAY CONGRESS

SEC. 115. Section 2(a) of the joint resolution entitled “Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor”, approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out “Not more than \$15,000 annually” and inserting in lieu thereof “Such sums as may be necessary”.

## PASSPORT FEES AND PERIOD OF VALIDITY

SEC. 116. (a) The first sentence of section 1 under the heading "FEES FOR PASSPORTS AND VISÈS" of the Act of June 4, 1920 (22 U.S.C. 214), is amended to read as follows: "There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport."

(b)(1) Section 2 of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 217a), is amended to read as follows:

"Sec. 2. A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation."

(2) The amendment made by this subsection applies with respect to passports issued after the date of enactment of this Act.

Effective date.  
22 USC 217a  
note.

## DOCUMENTATION OF CITIZENSHIP

SEC. 117. The State Department Basic Authorities Act of 1956 is amended by inserting the following new section 33 immediately after section 32 and by redesignating existing section 33 as section 34:

22 USC 2651  
note.

"SEC. 33. The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction:

22 USC 2705.

"(1) A passport, during its period of validity (if such period is the maximum period authorized by law), issued by the Secretary of State to a citizen of the United States.

"(2) The report, designated as a 'Report of Birth Abroad of a Citizen of the United States', issued by a consular officer to document a citizen born abroad."

UNITED STATES REPRESENTATIVE TO INTERNATIONAL ORGANIZATIONS  
IN VIENNA

SEC. 118. Section 2 of the United Nations Participation Act of 1945 (22 U.S.C. 287) is amended by adding at the end thereof the following new subsection:

"(h) The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct."

LIVING QUARTERS FOR THE STAFF OF THE UNITED STATES  
REPRESENTATIVE TO THE UNITED NATIONS

SEC. 119. Section 8 of the United Nations Participation Act of 1945 (22 U.S.C. 287e) is amended—

22 USC 287.

(1) by striking out “representative of the United States to the United Nations referred to in paragraph (a) of section 2 hereof” and inserting in lieu thereof “representatives provided for in section 2 of this Act and of their appropriate staffs”; and

(2) by adding at the end thereof the following: “Any payments made by United States Government personnel for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.”.

PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS TO  
INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

18 USC 203 note.

SEC. 120. (a) Sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interests of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State (or the Secretary’s designee) certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

“International telecommunications meeting or conference.”

(b) As used in this section, the term “international telecommunications meeting or conference” means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.

PROCUREMENT CONTRACTS

SEC. 121. The State Department Basic Authorities Act of 1956 is amended by inserting the following new section immediately after section 13:

22 USC 2679a.

“SEC. 14. (a) Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

“(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

“(2) the Secretary of State determines that—

“(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

“(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

“(C) such a method of contracting will not inhibit small business participation.

“(b) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.”.

Cancellation.

#### COMPENSATION FOR DISABILITY OR DEATH

SEC. 122. The State Department Basic Authorities Act of 1956 is amended by inserting the following new section immediately after section 15:

“SEC. 16. The first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the ‘Defense Base Act’) shall not apply with respect to such contracts as the Secretary of State may determine which are contracts with persons employed to perform work for the Department of State or the Foreign Service on an intermittent basis for not more than 90 days in a calendar year.”.

22 USC 2680a.

#### DUTIES OF A CHIEF OF MISSION

SEC. 123. Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended by adding at the end thereof the following new subsection:

“(c) Each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.”.

#### BASIC SALARY RATES FOR THE SENIOR FOREIGN SERVICE

SEC. 124. Section 402(a) of the Foreign Service Act of 1980 (22 U.S.C. 3962(a)) is amended—

(1) by inserting “(1)” immediately after “(a)”;

(2) by inserting immediately after the first sentence the following new sentence: “The President shall also prescribe one or more basic salary rates for each class.”; and

(3) by adding at the end thereof the following new paragraph:

“(2) The Secretary shall determine which of the basic salary rates prescribed by the President under paragraph (1) for any salary class shall be paid to each member of the Senior Foreign Service who is appointed to that class. The Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.”.

#### AMENDMENTS CORRECTING PRINTING ERRORS

SEC. 125. The Foreign Service Act of 1980 is amended—

(1) in section 704(b)(2) (22 U.S.C. 4024(b)(2)) by striking out “411” and inserting in lieu thereof “412”; and

(2) in section 814(a)(3) (22 U.S.C. 4054(a)(3)) by striking out "on" the second place it appears in the first sentence and inserting in lieu thereof "or".

#### SCIENTIFIC EXCHANGE ACTIVITIES WITH THE SOVIET UNION

Report to  
Congress.

SEC. 126. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report with respect to the individual exchange activities conducted pursuant to the 11 agreements for cooperation in specialized fields which were entered into by the United States and the Union of Soviet Socialist Republics between 1972 and 1974. This report shall include—

(1) an assessment of the risk of the transfer to the Soviet Union of militarily significant technology through research, exchanges, and other activities conducted pursuant to those agreements; and

(2) a detailed description on the exchanges and other activities conducted pursuant to those agreements during fiscal year 1981 and fiscal year 1982, including—

(A) the areas of cooperation,

(B) the specific research and projects involved,

(C) the man-hours spent in short-term (less than 60 days) and long-term exchanges,

(D) the level of United States and Soviet funding in each such fiscal year, and

(E) an assessment of the equality or inequality in value of the information exchanged.

(b) The Secretary of State shall prepare the report required by subsection (a) in consultation and cooperation with the heads of the other agencies involved in the exchange and other cooperative activities conducted pursuant to the agreements described in that subsection.

(c) Not later than July 1 of each year, the Secretary of State shall submit to the Congress a list of the Soviet nationals participating during the upcoming academic year in the United States-Union of Soviet Socialist Republics graduate student/young faculty exchange or in the United States-Union of Soviet Socialist Republics senior scholar exchange, their topics of study, and where they are to study. This report shall also include a determination by the Secretary of State, in consultation with the heads of the other agencies involved in these exchange programs, that these exchange programs will not jeopardize United States national security interests.

List of Soviet  
nationals,  
submittal to  
Congress.  
22 USC 2458  
note.

Foreign Missions  
Act.

## TITLE II—FOREIGN MISSIONS

### SHORT TITLE

22 USC 4301  
note.

SEC. 201. This title may be cited as the "Foreign Missions Act".

### REGULATION OF FOREIGN MISSIONS

22 USC 2662.

SEC. 202. (a) The State Department Basic Authorities Act of 1956 is amended by striking out "That the Secretary" in the first section and inserting in lieu thereof the following:

**“TITLE I—BASIC AUTHORITIES GENERALLY****“SECTION 1. The Secretary”.**

(b) That Act is further amended by adding at the end thereof the following:

**“TITLE II—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS****“DECLARATION OF FINDINGS AND POLICY**

“SEC. 201. (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

22 USC 4301.

“(b) The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

“(c) The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission.

**“DEFINITIONS**

“SEC. 202. (a) For purposes of this title—

22 USC 4302.

“(1) ‘benefit’ (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

“(A) real property by purchase, lease, exchange, construction, or otherwise,

“(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

“(C) supplies, maintenance, and transportation,

“(D) locally engaged staff on a temporary or regular basis,

“(E) travel and related services, and

“(F) protective services,

and includes such other benefits as the Secretary may designate;

“(2) ‘chancery’ means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

“(3) ‘Director’ means the Director of the Office of Foreign Missions established pursuant to section 203(a);

“(4) ‘foreign mission’ means any official mission to the United States involving diplomatic, consular, or other governmental activities of—

“(A) a foreign government, or

*Post*, p. 289.

“(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States,

including any real property of such a mission and including the personnel of such a mission;

“(5) ‘real property’ includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

“(6) ‘Secretary’ means the Secretary of State;

“(7) ‘sending State’ means the foreign government, territory, or political entity represented by a foreign mission; and

“(8) ‘United States’ means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

“(b) Determinations with respect to the meaning and applicability of the terms in subsection (a) shall be committed to the discretion of the Secretary.

#### “OFFICE OF FOREIGN MISSIONS

Establishment.  
22 USC 4303.  
Director,  
appointment.

“SEC. 203. (a) The Secretary shall establish an Office of Foreign Missions as an office within the Department of State. The Office shall be headed by a Director, appointed by the Secretary, who shall perform his or her functions under the supervision and direction of the Secretary. The Secretary may delegate this authority for supervision and direction of the Director only to the Deputy Secretary of State or an Under Secretary of State.

Functions.

“(b) The Secretary may authorize the Director to—

“(1) assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled;

“(2) provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204; and

“(3) perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

#### “PROVISION OF BENEFITS

22 USC 4304.

“SEC. 204. (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Director on such terms and conditions as the Secretary may approve.

“(b) If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

“(1) to facilitate relations between the United States and a sending State,

“(2) to protect the interests of the United States,

“(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad, or

“(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State, then the Secretary may require a foreign mission (A) to obtain benefits from or through the Director on such terms and conditions as the Secretary may approve, or (B) to comply with such terms and

conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

“(c) Terms and conditions established by the Secretary under this section may include—

“(1) a requirement to pay to the Director a surcharge or fee, and Surcharge or fee.

“(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this title. Waiver.

“(d) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate the Director or any other officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

“(e) Nothing in this section shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

#### “PROPERTY OF FOREIGN MISSIONS

“SEC. 205. (a)(1) The Secretary may require any foreign mission to notify the Director prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. If such a notification is required, the foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action— 22 USC 4305.

“(A) only after the expiration of the 60-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

“(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

“(2) For purposes of this section, ‘acquisition’ includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by a foreign mission. “Acquisition.”

“(b) The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

“(1) not to have been acquired in accordance with this section; or



“(2) to exceed limitations placed on real property available to a United States mission in the sending State.

“(c) If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

“(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

“(2) may authorize the Director to dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

#### “LOCATION OF FOREIGN MISSIONS IN THE DISTRICT OF COLUMBIA

22 USC 4306.

“SEC. 206. (a) The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

“(b)(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

“(2) A chancery shall also be permitted to locate—

“(A) in any area which is zoned medium-high or high density residential, and

“(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

“(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

“(c)(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2), or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

“(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

“(3) A final determination concerning the location, replacement, or expansion of a chancery shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this title.

“(d) Any determination concerning the location of a chancery, under subsection (b)(2), or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

Notice;  
publication in  
D.C. Register.

“(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation’s Capital.

“(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

“(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

“(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

“(5) The municipal interest, as determined by the Mayor of the District of Columbia.

“(6) The Federal interest, as determined by the Secretary.

“(e)(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d)) and shall reflect the policy of this title.

“(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

“(f) Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

“(g) The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

“(h) Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 205, by any other agency or official is not required—

“(1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before the effective date of this section; or

“(2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on the effective date of this section.

“(i)(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

D.C. building  
codes,  
compliance.

“(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

“(A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and

“(B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

“(j) Provisions of law (other than this title) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

#### “PREEMPTION

22 USC 4307.

“SEC. 207. Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this title. Nothing in section 202, 203, 204, or 205 may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

*Ante*, p. 283-285.

#### “GENERAL PROVISIONS

Regulations.  
22 USC 4308.

“SEC. 208. (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

“(b) Compliance with any regulation, instruction, or direction issued by the Secretary under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued by the Secretary under this title.

“(c) For purposes of administering this title—

“(1) the Secretary may accept details and assignments of employees of Federal agencies to the Office of Foreign Missions on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

Experts and  
consultants.

“(2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5, United States Code, without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

Contracts and  
subcontracts for  
supplies or  
services.

“(d) Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Director shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and

opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed \$10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this title.

“(e) The head of any Federal agency may, for purposes of this title—

“(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Office of Foreign Missions (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

“(2) acquire and accept services from the Office of Foreign Missions, including (whenever the Secretary determines it to be in furtherance of the purposes of this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

“(f) Assets of or under the control of the Office of Foreign Missions, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

“(g) Except as otherwise provided, any determination required under this title shall be committed to the discretion of the Secretary.

“(h)(1) In order to implement this title, the Secretary may transfer to the working capital fund established by section 13 of this Act such amounts available to the Department of State as may be necessary.

22 USC 2684.

“(2) All revenues, including proceeds from gifts and donations, received by the Director or the Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

“(3) Only amounts transferred or credited to the working capital fund established by section 13 of this Act may be used in carrying out the functions of the Secretary or the Director under this title.

“APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND  
OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

“SEC. 209. (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

*Ante*, p. 286.  
22 USC 4309.

“(b) For purposes of this section, ‘international organization’ means—

*Ante*, p. 283.  
*Ante*, p. 284.  
“International organization.”

“(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f-2) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign govern-

ments engage in some aspect of their conduct of international affairs; and

“(2) an official mission (other than a United States mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission.

#### “PRIVILEGES AND IMMUNITIES

22 USC 4310.

“SEC. 210. Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

#### “ENFORCEMENT

22 USC 4311.

“SEC. 211. (a) It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this title, including any action for injunctive or other equitable relief.

“(b) Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this title.

#### “PRESIDENTIAL GUIDELINES

22 USC 4312.

“SEC. 212. The authorities granted to the Secretary pursuant to the provisions of this title shall be exercised in accordance with procedures and guidelines approved by the President.

#### “SEVERABILITY

22 USC 4313.

“SEC. 213. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.”.

#### TECHNICAL AND CONFORMING AMENDMENTS

SEC. 203. (a) Section 13 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2684) is amended in the first sentence by striking out “and” following the semicolon at the end of clause (3), and by inserting immediately before the period at the end of the sentence the following: “; and (5) services and supplies to carry out title II of this Act”.

(b)(1) Subparagraph (A) of section 2(1) of the Diplomatic Relations Act (22 U.S.C. 254a(1)(A)) is amended to read as follows:

“(A) the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,”.

(2) Section 3(b) of such Act (22 U.S.C. 254b) is amended to read as follows:

“(b) With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.”.

(3) Section 4 of such Act (22 U.S.C. 254c) is amended—

(A) by inserting “the mission, the” immediately after “immunities for”; and

(B) by striking out “of any sending state”.

(4) Section 1364 of title 28, United States Code, is amended by striking out “as defined in the Vienna Convention on Diplomatic Relations” and inserting in lieu thereof “within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))”.

(c) Section 6 of the Act of June 20, 1938 (D.C. Code, 1981 ed., sec. 5-418) is amended by striking out “(a)”, and by striking out subsections (b), (c), (d), and (e).

#### EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1982.

22 USC 4301  
note.

### TITLE III—UNITED STATES INFORMATION AGENCY

#### SHORT TITLE

SEC. 301. This title may be cited as the “United States Information Agency Authorization Act, Fiscal Years 1982 and 1983”.

United States  
Information  
Agency  
Authorization  
Act, Fiscal Years  
1982 and 1983.

#### AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated for the United States Information Agency, as so redesignated by section 303 of this Act, \$494,034,000 for the fiscal year 1982 and \$559,000,000 for the fiscal year 1983 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

22 USC 1431  
note.  
22 USC 2451  
note.  
5 USC app.

#### REDESIGNATION OF THE INTERNATIONAL COMMUNICATION AGENCY AS THE UNITED STATES INFORMATION AGENCY

SEC. 303. (a) The International Communication Agency, established by Reorganization Plan Numbered 2 of 1977, is hereby redesignated the United States Information Agency. The Director of the International Communication Agency or any other official of the International Communication Agency is hereby redesignated the Director or other official, as appropriate, of the United States Information Agency.

22 USC 1461  
note.  
5 USC app.

(b) Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States

Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).

#### CHANGES IN ADMINISTRATIVE AUTHORITIES

SEC. 304. (a)(1) Title III of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1451-1453) is amended—

22 USC 1451.

(A) in section 301 by striking out “citizen of the United States” and inserting in lieu thereof “person”; and

22 USC 1452,  
1453.

(B) in sections 302 and 303 by striking out “citizen of the United States” and inserting in lieu thereof “person in the employ or service of the Government of the United States”.

(2) Such title is further amended—

(A) in section 301—

(i) by striking out “Secretary” the first place it appears and inserting in lieu thereof “Director of the United States Information Agency”, and

(ii) by striking out “Secretary” the second place it appears and inserting in lieu thereof “Director”; and

(B) in section 303 by striking out “Secretary” and inserting in lieu thereof “Director of the United States Information Agency”.

(3) Section 302 of such Act is amended—

(A) in the second sentence by striking out “section 901(3) of the Foreign Service Act of 1946 (60 Stat. 999)” and inserting in lieu thereof “section 905 of the Foreign Service Act of 1980”; and

(B) in the last sentence by striking out “section 1765 of the Revised Statutes” and inserting in lieu thereof “section 5536 of title 5, United States Code”.

(b) Section 802 of such Act (22 U.S.C. 1472) is amended—

(1) by inserting “(a)” immediately after “Sec. 802.”; and

(2) by adding at the end thereof the following new subsection:

“(b)(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

“(A) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

“(B) the Director of the United States Information Agency determines that—

“(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

“(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

“(iii) such method of contracting will not inhibit small business participation.

“(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acqui-

tion of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

“(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.”

(c) Paragraph (16) of section 804 of such Act (22 U.S.C. 1474(16)) is amended by inserting “and security” immediately after “right-hand drive”.

(d) Section 804 of such Act (22 U.S.C. 1474) is amended—

(1) by striking out “and” at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; and”; and

(3) by adding at the end of the section the following new paragraph:

“(20) subject to the availability of appropriated funds, purchase motion picture, radio and television producers’ liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property.”

(e) Title VIII of such Act (22 U.S.C. 1471-1475b) is amended by adding at the end thereof the following new sections:

#### “ACTING ASSOCIATE DIRECTORS

“SEC. 808. If an Associate Director of the United States Information Agency dies, resigns, or is sick or absent, the Associate Director’s principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

22 USC 1475c.

#### “COMPENSATION FOR DISABILITY OR DEATH

“SEC. 809. A cultural exchange, international fair or exposition, or other exhibit or demonstration of United States economic accomplishments and cultural attainments, provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered a ‘public work’ as that term is defined in the first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the ‘Defense Base Act’).

22 USC 1475d.

#### “USE OF ENGLISH-TEACHING PROGRAM FEES

“SEC. 810. (a) Notwithstanding section 3617 of the Revised Statutes of the United States (31 U.S.C. 484) or any other law or limitation of authority, tuition fees or other payments received by or for the use of the International Communication Agency from or in connection with English-teaching programs conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency’s applicable appropriation to such extent as may be provided in advance in an appropriation Act.

22 USC 1475e.

“(b) This section shall take effect on October 1, 1982.”

(f) Section 1011(h) of such Act (22 U.S.C. 1442(h)) is amended by adding at the end thereof the following new paragraph:

Effective date.

“(4) Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidat-



ing the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.”.

#### INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

SEC. 305. (a) The Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose programs also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

(5) with the availability of increased resources, the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.

(b) It is therefore the sense of the Congress that—

(1) United States exchange-of-persons activities should be strengthened;

(2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing the United States national security; and

(3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term funding.

(c) The amount obligated by the United States Information Agency each fiscal year for grants for exchange-of-persons activities shall be increased, through regular annual increases, so that by the fiscal year 1986 the amount obligated for such grants is at least double (in terms of constant dollars) the amount obligated for such grants for the fiscal year 1982.

(d)(1) In furtherance of the purposes of subsection (c), the Congress directs that of the amount appropriated for the United States Information Agency for the fiscal year 1983—

(A) \$84,256,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program; and

(B) \$3,248,000 shall be available only for grants for the Humphrey Fellowship Program; and

(C) \$8,906,000 shall be available only for grants to private, not-for-profit organizations engaging in exchange-of-persons programs;

subject to paragraphs (2) and (3) of this subsection.

(2) If the amount appropriated for the United States Information Agency for the fiscal year 1983 is less than the amount authorized for the fiscal year 1983, then the amounts specified in subpara-

22 USC 2455  
note.

22 USC 2455  
note.

graphs (A) through (C) of paragraph (1) shall each be deemed to be reduced to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the amount authorized. For purposes of this paragraph—

(A) the term “amount appropriated” means the amount appropriated under section 302 of this Act (less any rescissions), and does not include amounts appropriated under section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations) or under any other provision of law; and

“Amount appropriated.”  
*Ante*, p. 291.

22 USC 1477b.

(B) the term “amount authorized” means the amount authorized to be appropriated by section 302 of this Act, less an amount equal to any amount which was withheld from appropriation (or was rescinded) in order to reduce the amount available for a particular program or activity.

(3) The Director of the United States Information Agency may authorize up to 5 percent of the amount earmarked under subparagraph (A), (B), or (C) of paragraph (1) to be used for a purpose other than the exchange-of-persons activities specified in that subparagraph. Not less than 15 days prior to any such authorization, the Director shall submit to the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a justification for authorizing the use of earmarked funds for a purpose other than the specified exchange-of-persons activities.

#### DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN UNITED STATES INFORMATION AGENCY FILMS

SEC. 306. (a) Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of each of the films listed in subsection (b) of this section; and

Master copies, availability to GSA.

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

Reimbursement; film deposit in National Archives.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

(b) The films to be made available pursuant to this section are the following: “Reflections: Samuel Eliott Morison”; “And Now Miguel”; and “In their Own Words”.

#### TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING

##### SHORT TITLE

SEC. 401. This title may be cited as the “Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983”.

Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983.  
22 USC 2871 note.

## AUTHORIZATIONS OF APPROPRIATIONS

SEC. 402. Subparagraph (A) of section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)(A)) is amended to read as follows:

“(A) \$86,519,000 for the fiscal year 1982 and \$98,317,000 for the fiscal year 1983; and”.

## MEMBERSHIP OF THE RFE/RL BOARD AND THE BOARD FOR INTERNATIONAL BROADCASTING

SEC. 403. (a) The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871-2879) is amended by adding at the end thereof the following new section:

## “MERGER OF THE BOARD FOR INTERNATIONAL BROADCASTING AND THE RFE/RL BOARD

22 USC 2880.

“SEC. 11. (a) Effective 60 days after the date of enactment of this section, no grant may be made under this Act to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

“(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Board for International Broadcasting and of no other members, except that the member of the Board for International Broadcasting who is an ex officio member of that Board because of his or her position as chief operating executive of RFE/RL, Incorporated, may participate in the activities of the Board of Directors but may not vote in the determinations of the Board of Directors; and

Functions.

“(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it deems necessary to carry out the purposes of this Act.

“(b) Compliance with the requirement of paragraph (1) of subsection (a) shall not be construed to make RFE/RL, Incorporated, a Federal agency or instrumentality.”.

(b)(1) Section 3(b)(1) of such Act (22 U.S.C. 2872(b)(1)) is amended to read as follows:

“(b)(1) COMPOSITION OF BOARD.—The Board shall consist of ten members, one of whom shall be an ex officio member. The President shall appoint, by and with the advice and consent of the Senate, nine voting members, one of whom the President shall designate as chairman. Not more than five of the members of the Board appointed by the President shall be of the same political party. The chief operating executive of RFE/RL, Incorporated, shall be an ex officio member of the Board and may participate in the activities of the Board, but may not vote in the determinations of the Board.”.

(2) Sections 3(b)(3) and (4) of that Act (22 U.S.C. 2872(b)(3) and (4)) are amended to read as follows:

“(3) TERM OF OFFICE OF PRESIDENTIALLY APPOINTED MEMBERS.—The term of office of each member of the Board appointed by the President shall be three years, except that the terms of office of the individuals initially appointed as the four additional voting members of the Board who are provided for by the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983,

*Ante*, p. 295.

shall be one, two, or three years (as designated by the President at the time of their appointment) so that the terms of one-third of the voting members of the Board expire each year. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his or her successor has been appointed and qualified.

“(4) **TERM OF OFFICE OF THE EX OFFICIO MEMBER.**—The ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive of RFE/RL, Incorporated.”.

#### RADIO BROADCASTING TO CUBA

SEC. 404. Any program of the United States Government involving radio broadcasts directed principally to Cuba, for which funds are authorized to be appropriated by this Act or any other Act, shall be designated as “Radio Marti”.

Radio Marti.

### TITLE V—MISCELLANEOUS PROVISIONS

#### INTER-AMERICAN FOUNDATION

SEC. 501. (a) Section 401(s)(2) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(s)(2)) is amended in the first sentence by striking out “\$25,000,000 for each of the fiscal years 1979 and 1980” and inserting in lieu thereof “\$12,000,000 for the fiscal year 1982 and \$12,800,000 for the fiscal year 1983”.

(b) Section 401(h) of that Act (22 U.S.C. 290f(h)) is amended by striking out “actual and necessary expenses not in excess of \$50 per day, and for transportation expenses” and inserting in lieu thereof “travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code”.

(c) Section 401 of that Act is further amended by adding at the end thereof the following new subsection:

“(u) When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection.”.

#### REPORT ON COSTS FOR REFUGEES AND CUBAN AND HAITIAN ENTRANTS

SEC. 502. (a) Not later than 60 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are

attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than those described in paragraphs (1) and (2) to assist and provide services for refugees and Cuban and Haitian entrants;

(4) administrative and operating expenses of Federal, State, and local governments that are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term “refugees” is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the term “Cubans and Haitian entrants” means Cuban and Haitians paroled into the United States, pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under that Act.

#### JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 503. (a) Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking out “and not to exceed 5 per centum annually of the principal of the Fund” and inserting in lieu thereof “, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund”.

(b) Section 7(e) of such Act (22 U.S.C. 2906(e)) is amended by inserting after “amounts received” the following: “(including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)”.

#### INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES

SEC. 504. The Congress expresses its strong support for the promotion by the United States of sound infant feeding practices, and continues to be concerned with the sole negative vote cast by the United States against the International Code of Marketing of Breastmilk Substitutes. The Congress urges the President, in light of congressional concern and of new indications of international support for general implementation of the Code, to review the United States position on the Code prior to the 25th World Health Assembly meeting. The Congress also urges United States infant formula manufacturers to continue to re-examine their own position regarding the Code.

#### REPEAL OF OBSOLETE PROVISIONS

SEC. 505. (a) The following provisions of law are repealed:

(1) Section 408 of the Act entitled “An Act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting”, approved August 15, 1979.

“Refugees.”

8 USC 1101.

“Cubans and  
Haitian  
entrants.”

8 USC 1182.

22 USC 287c  
note.

(2) Sections 121(b), 122(b), 504(e), 601(b), 603(c), 608(c), 609(c), 610(c), 611(b), 613(b), 705(a), 709, and 711 of the Foreign Relations Authorization Act, Fiscal Year 1979.

(3) Sections 107(b), 109(a)(7), 414(b), 501, 503(b), 505(a), and 513 of the Foreign Relations Authorization Act, Fiscal Year 1978.

(4) Section 403 of the Foreign Relations Authorization Act, Fiscal Year 1977.

(5) Sections 102(b) and 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1976.

(6) Section 15 of the State Department/USIA Authorization Act, Fiscal Year 1975.

(b)(1) Sections 121, 122, 601, 611, and 613 of the Foreign Relations Authorization Act, Fiscal Year 1979, sections 107, 414, and 503 of the Foreign Relations Authorization Act, Fiscal Year 1978, and section 503 of the Foreign Relations Authorization Act, Fiscal Year 1976, are each amended by striking out “(a)”.

(2) Section 705 of the Foreign Relations Authorization Act, Fiscal Year 1979, and section 505 of the Foreign Relations Authorization Act, Fiscal Year 1978, are each amended by striking out “(b)”.

(3) Section 102 of the Foreign Relations Authorization Act, Fiscal Year 1976, is amended by striking out “(a) Except as provided in subsection (b), no” and inserting in lieu thereof “No”.

Approved August 24, 1982.

22 USC 4195  
note, 2680 note,  
2656d; 92 Stat.  
984; 22 USC 2656  
note, 2656d note;  
92 Stat. 988, 989;  
22 USC 2151  
note, 1731 note,  
2370 note, 2220a  
note.  
91 Stat. 845; 22  
USC 2384 note,  
4021 note; 91  
Stat. 857, 858,  
862; 22 USC 2151  
note.  
22 USC 2871  
note.  
89 Stat. 756, 772.  
22 USC 2151  
note.  
22 USC 4195  
note, 2680 note;  
92 Stat. 984; 22  
USC 1731 note,  
2370 note.  
91 Stat. 845; 22  
USC 4021 note;  
91 Stat. 858, 89  
Stat. 772.  
22 USC 2151  
note.  
91 Stat. 858.  
89 Stat. 756.

#### LEGISLATIVE HISTORY—S. 1193 (H.R. 3518) (3467):

HOUSE REPORTS: No. 97-102, Pt. 1 (Comm. on Foreign Affairs), Pt. 2 (Comm. on the District of Columbia), both accompanying H.R. 3518; No. 97-55 accompanying H.R. 3467 (Comm. on Armed Services).

SENATE REPORTS: No. 97-71 (Comm. on Foreign Relations) and No. 97-430 accompanying H.R. 3467 (Comm. on Foreign Relations).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): June 8, H.R. 3467 considered and passed House.

June 17, 18, considered and passed Senate.

Oct. 29, considered and passed House, amended.

Vol. 128 (1982): Aug. 9, Senate agreed to conference report.

Aug. 11, House agreed to conference report.

#### WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 18, No. 34 (1982): Aug. 24, Presidential statement.

Public Law 97-242  
97th Congress

## An Act

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Aug. 24, 1982  
[S. 2073]

To repeal outdated size and weight limitations now imposed on the United States Postal Service.

U.S. Postal  
Service; mail  
size and weight  
limitations;  
repeal.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 3682 of title 39, United States Code, is amended to read as follows:

**“§ 3682. Size and weight limits**

“The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.”.

39 USC 3682  
note.

(b) The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section, shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.

Approved August 24, 1982.

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LEGISLATIVE HISTORY—S. 2073:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
July 29, considered and passed Senate.  
Aug. 12, considered and passed House.

Public Law 97-243  
97th Congress

An Act

To designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

Aug. 26, 1982  
[H.R. 6530]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

ESTABLISHMENT OF NATIONAL VOLCANIC MONUMENT

SECTION 1. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Monument, August 1982", are hereby designated as the Mount St. Helens National Volcanic Monument (hereafter in this Act referred to as the "Monument").

(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the Monument established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest and in the office of the Chief of the Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the Monument. Such minor boundary revisions may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least 60 days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 2. (a) The exterior boundary of the Gifford Pinchot National Forest is hereby extended to include all lands and waters within the boundaries of the Monument. Lands and interests therein acquired pursuant to section 3 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National

Mount St.  
Helens National  
Volcanic  
Monument,  
Wash.  
Designation.  
16 USC 431 note.

Map and  
description;  
filing with  
congressional  
committees.

Minor boundary  
revisions.

Notice;  
publication  
in Federal  
Register.

16 USC 4601-9.



(7) The provisions of this subsection (except for the provisions of paragraphs (5) and (6)) do not authorize the exercise by the Secretary of the power of eminent domain, and any exchange of the lands or interests in lands carried out under this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Secretary and Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement.

(d) Nothing in this Act shall affect any prior contractual obligation of Burlington Northern Incorporated or Weyerhaeuser Company regarding lands owned by them and included in an exchange pursuant to this Act nor shall such obligations be transferred pursuant to this legislation to the United States.

(e) Any terms, conditions, or obligations imposed by the Act of July 2, 1864 (13 Stat. 365), as amended, that apply to lands and interests in lands exchanged under this Act by Burlington Northern Incorporated shall apply in equivalent manner to lands and interests in lands obtained by Burlington Northern Incorporated under this Act.

(f) Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interests authorized by this Act. In the course of preparing the assessment, the Secretary shall conduct at least one public hearing in the vicinity of the mineral or geothermal interests to be conveyed by the United States in such exchange. Any exchange of mineral or geothermal interests may be made by the Secretary only after providing the committees referred to in section 1 of this Act thirty days' notice of his intention to do so.

Environmental  
assessment.

Hearing.

#### ADMINISTRATION

SEC. 4. (a) The Secretary acting through the Forest Service shall administer the Monument as a separate unit within the boundary of the Gifford Pinchot National Forest, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(b)(1) The Secretary shall manage the Monument to protect the geologic, ecologic, and cultural resources, in accordance with the provisions of this Act allowing geologic forces and ecological succession to continue substantially unimpeded.

(2) The Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the Monument or (B) cause substantial damage to significant resources adjacent to the Monument.

(3) Nothing in this Act shall prohibit the Secretary from undertaking or permitting those measures within the Monument reasonably necessary to ensure public safety and prevent loss of life and property.

(c) The Secretary shall permit the full use of the Monument for scientific study and research, except that the Secretary may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the Monument.

Scientific  
study and  
research.

(d) In order to protect the significant features of the Monument, reduce user conflicts, and ensure visitor safety, the Secretary is authorized to control times and means of access and use of the Monument or parts thereof: *Provided*, That nothing in this section

shall be construed as to prohibit the use of motorized vehicles, aircraft or motorboats for emergency and other essential administrative services, including those provided by State and local governments, or when necessary, for authorized scientific research.

Recreational  
and interpretive  
facilities.

(e)(1) The Secretary shall provide for recreational use of the Monument and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Except for roads needed for recreational and interpretive purposes as may be recommended by the comprehensive management plan submitted in accordance with the provisions of subsection (i), roads or other developed facilities within the Monument should be located generally in areas which were developed prior to the 1980 eruption.

(f) Subject to valid existing rights, all Federal lands within the Monument are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any mining activity carried out pursuant to valid existing rights shall be conducted in accordance with applicable Federal and State law.

Timber  
harvesting,  
exceptions.

(g) Timber harvesting shall not be permitted on Federal lands within the Monument except (1) for timber salvage contracts awarded by the Forest Service before the date of enactment of this Act, and (2) to the minimum extent necessary to control fire, insects, diseases and other agents that would endanger irreplaceable features within the Monument, cause substantial damage to significant resources adjacent to the Monument, or endanger public safety. National forest system roads within the Monument may be used to the extent necessary for such timber harvesting activities. If the Secretary intends to carry out timber harvesting activities under clause (2), the Secretary shall advise the Committee on Energy and Natural Resources of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives of the action the Secretary intends to take at least 30 days in advance of initiating action to contract for such sales, except that in emergency situations the Secretary shall submit a report to such Committees, describing the action taken within 30 days thereafter.

Notification  
or report to  
congressional  
committees.

Hunting and  
fishing zones,  
designation.

(h) The Secretary shall permit hunting and fishing on lands and waters within the Monument in accordance with applicable Federal and State law, except that the Secretary may designate zones within the Monument where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities. Nothing in this subsection shall be construed as affecting the jurisdiction or responsibilities of the State of Washington with respect to wildlife and fish within the Monument.

Management  
plan, sub-  
mittal to  
congressional  
committees.

(i) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 1(b), a detailed and comprehensive management plan for the Monument.

The initial Monument management plan may be expressed as an amendment to the October 1981 Mount St. Helens Land Management Plan. Subsequent Monument plans shall be integrated with and periodically revised as a component of the Gifford Pinchot land management planning process. The plan shall include but not be limited to:

- (1) measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;
- (2) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the area, including anticipated timetables and costs;
- (3) identification of, and implementation plans for, visitor carrying capacities of the area; and
- (4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

#### MANAGEMENT OF ADJACENT FEDERAL LANDS

SEC. 6. Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument for the purpose of precluding activities outside the Monument boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument necessary to protect public health and safety in emergencies involving volcanic activity.

#### SCIENTIFIC ADVISORY BOARD

SEC. 7. (a) There is hereby established the Mount St. Helens Scientific Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

- (1) the measures needed to protect and manage the natural and scientific values of the Monument; and
- (2) the administration of the Monument with respect to policies, programs, and activities which are specifically intended to retain the natural ecologic and geologic processes and integrity of the Monument.

The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the Monument designed to gain scientific information for future interpretation and enjoyment by visitors to the Monument. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines, as follows:

- (1) three members appointed by the Secretary (one of whom shall be a professional employee of the Forest Service);
- (2) two members appointed by the Secretary of the Interior (one of whom shall be a professional employee of the United States Geological Survey);
- (3) two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington; and

Mount St.  
Helens Scien-  
tific Advisory  
Board.  
Establishment.

New research  
opportunities,  
recommendations.

Membership.

Terms of  
office.

(4) two members appointed by the Chairman of the National Science Foundation.

(c) Each member shall be appointed to serve for a term of three years, except that one of the initial appointees of each appointing official shall serve an initial term of four years, one of the initial appointees of each appointing official shall serve an initial term of two years, and one of the initial appointees of the Secretary shall serve an initial term of one year.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the protection of the Monument and potential and ongoing research programs within the Monument.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

Termination.

(h) The Board shall terminate ten years from the date of its first meeting.

**EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT  
NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON**

SEC. 8. (a) Notwithstanding the provisions of the last paragraph under the heading "Forest Service" of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County—

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment of this Act.

## AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is hereby authorized to be appropriated to carry out the provisions of this Act, not to exceed \$12,000,000 for the fiscal year beginning October 1, 1982, and such sums as may be necessary for each fiscal year thereafter.

Approved August 26, 1982.

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LEGISLATIVE HISTORY—H.R. 6530 (S. 2133):

HOUSE REPORTS: No. 97-636, Pt. I (Comm. on Interior and Insular Affairs), Pt. II (Comm. on Agriculture) and No. 97-748 (Comm. of Conference).

SENATE REPORTS: No. 97-481 accompanying S. 2133 (Comm. on Energy and Natural Resources) and No. 97-523 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, considered and passed House.

July 21, considered and passed Senate, amended.

Aug. 13, Senate agreed to conference report.

Aug. 17, House agreed to conference report.

Public Law 97-244  
97th Congress

An Act

Aug. 26, 1982

[H.R. 2160]

To amend the Potato Research and Promotion Act.

Potato Research  
and Promotion  
Act  
Amendments  
of 1982.  
7 USC 2611 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Potato Research and Promotion Act Amendments of 1982".

REQUIRED TERMS IN PLANS

SEC. 2. Section 308 of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended by—

(1) amending subsection (b) to read as follows:

"(b) Providing that the board shall be composed of representatives of producers and the public appointed by the Secretary from nominations submitted in accordance with this subsection. Representatives of producers shall be nominated by producers in such manner as may be prescribed by the Secretary. Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary. If producers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan.";

(2) amending subsection (e) to read as follows:

"(e) Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate required for such costs as may be incurred under subsection (d) of this section, including any referendum and administrative costs estimated to be incurred by the United States Department of Agriculture under this title: *Provided*, That the rate of assessment for fiscal year 1982 and each fiscal year thereafter shall not exceed one-half of 1 per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture."; and

(3) inserting before the semicolon in subsection (f)(1) the following: ", including any referendum and administrative costs incurred by the Department of Agriculture under this title".

Assessment rate;  
referendum and  
administrative  
costs.

ENFORCEMENT

SEC. 3. Section 312 of the Potato Research and Promotion Act (7 U.S.C. 2621) is amended to read as follows:

"SEC. 312. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any plan or regulation made or issued under this title. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General violations of this title whenever the Secretary

believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing such violations.

“(b)(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than \$500 or more than \$5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary’s order with the appropriate United States court of appeals.

Penalty.

Notice and hearing.

“(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (b)(1) of this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

Appeal.

“(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (b) (1) and (2) of this section, of not more than \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

Hearing and judicial review.

“(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.”

#### REQUIREMENT OF REFERENDUM

SEC. 4. Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended to read as follows:

“SEC. 314. (a) The Secretary shall conduct a referendum among producers, who during a representative period determined by the Secretary have been engaged in the production of potatoes, for the purpose of ascertaining whether the issuance of a plan is approved or favored by such producers.

“(b) No plan issued under this title shall be effective unless the Secretary determines that the issuance of such plan is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum.

“(c) The failure of potato producers to approve an amendment to any plan issued under this title shall not be deemed to invalidate such plan.

“(d) The ballots and other information or reports which reveal or tend to reveal the vote of any producer or his production of potatoes shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall upon conviction be subject to the penalties provided in section 310(c) above.”.

Approved August 26, 1982.

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**LEGISLATIVE HISTORY—H.R. 2160:**

HOUSE REPORT No. 97-446 (Comm. on Agriculture).

SENATE REPORT No. 97-334 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 9, considered and passed House.

May 5, considered and passed Senate, amended.

July 26, House disagreed to Senate amendments.

Aug. 12, Senate receded from its disagreement on House amendments.



Public Law 97-245  
97th Congress

## An Act

Relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.

Aug. 26, 1982  
[H.R. 6033]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds and declares that—

Historic  
Congressional  
Cemetery,  
Wash., D.C.  
Preservation.  
2 USC 51 note.

(1) sections of the Congressional Cemetery in the District of Columbia are of national historic significance, including those areas in which John Philip Sousa, Matthew Brady, J. Edgar Hoover, several former Members of the United States Senate and House of Representatives, and many other persons of historical importance and interest are buried; and

(2) the physical condition of these areas and related portions of the cemetery has deteriorated to the extent that restoration is necessary to protect and preserve the historical values of these areas.

SEC. 2. In order to assist in the restoration and preservation of the historic values of the Congressional Cemetery, the Architect of the Capitol is authorized and directed to make grants to the Association for the Preservation of Historic Congressional Cemetery, Washington, District of Columbia, to be used for a program of restoration and preservation (but not routine maintenance) of the cemetery to be carried out under terms and conditions to be prescribed by the Architect of the Capitol. The Association shall maintain adequate records and accounts of all financial transactions and operations carried out under such program, and such records shall be available at all times for audit and investigation by the Architect or the Comptroller General of the United States. Nothing in this Act shall be construed to vest title to the Congressional Cemetery in the United States.

Grants.  
2 USC 51 note.

Record  
maintenance.

SEC. 3. There is authorized to be appropriated \$300,000 for grants to be made under section 2 of this Act, such sums to remain available until expended.

Appropriation  
authorization.  
2 USC 51 note.

2 USC 51 note.

SEC. 4. No authority under this Act to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

Approved August 26, 1982.

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**LEGISLATIVE HISTORY—H.R. 6033:**

HOUSE REPORT No. 97-667 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 2, considered and passed House.

Aug. 13, considered and passed Senate.

Public Law 97-246  
97th Congress

An Act

To award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour.

Aug. 26, 1982  
[H.R. 4647]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President of the United States is authorized to present, on behalf of Congress, a gold medal of appropriate design to Fred Waring in recognition of his contribution to enriching American life. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed \$20,000 after October 1, 1981, to carry out the provisions of this subsection.

Fred Waring;  
Mrs. Joe Louis;  
and Louis  
L'Amour.  
Gold Medals.

Appropriation  
authorization.  
Duplicates.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. (a) The President of the United States is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Mrs. Joe Louis in recognition of her late husband's accomplishments which did so much to bolster the spirit of the American people during one of the most crucial times in American history and which have endured throughout the years as a symbol of strength for the Nation. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed \$20,000 after October 1, 1981, to carry out the provisions of this subsection.

Appropriation  
authorization.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

Duplicates.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 3. (a) The President of the United States is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Louis L'Amour in recognition of his distinguished career as an author and his contributions to the Nation through his historically based works. For such purpose, the Secretary of the

Appropriation  
authorization.

Duplicates.

Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed \$20,000 after October 1, 1981, to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved August 26, 1982.

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LEGISLATIVE HISTORY—H.R. 4647 (H.J. Res. 223):

CONGRESSIONAL RECORD:

Vol. 127 (1981): July 27, H.J. Res. 223 considered and passed House.

Sept. 14, H.J. Res. 223, considered and passed Senate, amended.

Vol. 128 (1982): Aug. 2, considered and passed House.

Aug. 12, considered and passed Senate.

Public Law 97-247  
97th Congress

An Act

To authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

Aug. 27, 1982  
[H.R. 6260]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is authorized to be appropriated for the payment of salaries and necessary expenses of the Patent and Trademark Office to become available for fiscal year 1983, \$76,000,000, and in fiscal years 1984 and 1985 such sums as may be necessary as well as such additional or supplemental amounts as may be necessary, for increases in salary, pay, retirement, or other employee benefits authorized by law. Funds available under this section shall be used to reduce by 50 per centum the payment of fees under section 41 (a) and (b) of title 35, United States Code, by independent inventors and nonprofit organizations as defined in regulations established by the Commissioner of Patents and Trademarks, and by small business concerns as defined in section 3 of the Small Business Act and by regulations established by the Small Business Administration. When so specified and to the extent provided in an appropriation Act, any amount appropriated pursuant to this section and, in addition, such fees as shall be collected pursuant to title 35, United States Code, and the Trademark Act of 1946, as amended (15 U.S.C. 1051 et seq.), may remain available without fiscal year limitation.

Patent and  
Trademark  
Office.  
Appropriation  
authorization.

15 USC 632.

SEC. 2. Notwithstanding any other provision of law, there is authorized to be appropriated for the payment of salaries and expenses of the Patent and Trademark Office, \$121,461,000 for the fiscal year ending September 30, 1982, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

SEC. 3. (a) Section 41(a) of title 35, United States Code, is amended to read as follows:

“(a) The Commissioner shall charge the following fees:

Fees.

“1. On filing each application for an original patent, except in design or plant cases, \$300; in addition, on filing or on presentation at any other time, \$30 for each claim in independent form which is in excess of three, \$10 for each claim (whether independent or dependent) which is in excess of twenty, and \$100 for each application containing a multiple dependent claim. For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

35 USC 112.

“2. For issuing each original or reissue patent, except in design or plant cases, \$500.

“3. In design and plant cases:

“a. On filing each design application, \$125.

"b. On filing each plant application, \$200.

"c. On issuing each design patent, \$175.

"d. On issuing each plant patent, \$250.

"4. On filing each application for the reissue of a patent, \$300; in addition, on filing or on presentation at any other time, \$30 for each claim in independent form which is in excess of the number of independent claims of the original patent, and \$10 for each claim (whether independent or dependent) which is in excess of twenty and also in excess of the number of claims of the original patent. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"5. On filing each disclaimer, \$50.

"6. On filing an appeal from the examiner to the Board of Appeals, \$115; in addition, on filing a brief in support of the appeal, \$115, and on requesting an oral hearing before the Board of Appeals, \$100.

35 USC 133, 151.

"7. On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, \$500, unless the petition is filed under sections 133 or 151 of this title, in which case the fee shall be \$50.

"8. For petitions for one-month extensions of time to take actions required by the Commissioner in an application:

"a. On filing a first petition, \$50.

"b. On filing a second petition, \$100.

"c. On filing a third or subsequent petition, \$200."

(b) Section 41(b) of title 35, United States Code, is amended to read as follows:

Maintenance  
fees.

"(b) The Commissioner shall charge the following fees for maintaining a patent in force:

"1. Three years and six months after grant, \$400.

"2. Seven years and six months after grant, \$800.

"3. Eleven years and six months after grant, \$1,200.

Expiration.

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such six-month grace period the late payment of an applicable maintenance fee. No fee will be established for maintaining a design or plant patent in force."

Surcharge.

(c) Section 41(c) of title 35, United States Code, is amended to read as follows:

Maintenance  
fee, delayed  
payment.

"(c)(1) The Commissioner may accept the payment of any maintenance fee required by subsection (b) of this section after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable. The Commissioner may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Commissioner accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

Surcharge.

"(2) No patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall abridge or affect the right of any person or his successors in business who made, purchased or used after the six-month grace period but prior to the acceptance of a maintenance fee

under this subsection anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased, or used as specified, or for the manufacture, use or sale of which substantial preparation was made after the six-month grace period but before the acceptance of a maintenance fee under this subsection, and it may also provide for the continued practice of any process, practiced, or for the practice of which substantial preparation was made, after the six-month grace period but prior to the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the six-month grace period but before the acceptance of a maintenance fee under the subsection."

(d) Section 41(d) of title 35, United States Code, is amended to read as follows:

"(d) The Commissioner will establish fees for all other processing, services, or materials related to patents not specified above to recover the estimated average cost to the Office of such processing, services, or materials. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents issued in that year will be \$50."

Fees.

35 USC 13.

(e) Section 41(f) of title 35, United States Code, is amended to read as follows:

Adjusted fees.

"(f) The fees established in subsections (a) and (b) of this section may be adjusted by the Commissioner on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. Changes of less than 1 per centum may be ignored."

(f) Subsection (a) of section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), is amended by deleting "Fees will be set and adjusted by the Commissioner to recover in aggregate 50 per centum of the estimated average cost to the Office of such processing. Fees for all other services or materials related to trademarks and other marks will recover the estimated average cost to the Office of performing the service or furnishing the material."

(g) Section 42(c) of title 35, United States Code, is amended by adding the following sentence at the end thereof: "Fees available to the Commissioner under section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks."

SEC. 4. Section 3(a) of title 35, United States Code is amended (1) by deleting the phrase "not more than fifteen"; and (2) by inserting the phrase "appointed under section 7 of this title" immediately after the phrase "examiners-in-chief".

SEC. 5. Section 111 of title 35, United States Code, is amended to read as follows:

"SEC. 111. Application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include (1) a specification as prescribed by section 112 of this title; (2) a drawing as prescribed by section 113 of this title; and (3) an oath by the applicant as prescribed by section 115 of this title. The application

Applications.

35 USC 112.

35 USC 113.

35 USC 115.

must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner. Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office."

Filing date.

SEC. 6. (a) Section 116 of title 35, United States Code, is amended (1) by deleting the phrase "Joint inventors" from the title and inserting in its place "Inventors"; and (2) in the third paragraph, by deleting the phrase "a person is joined in an application for patent as joint inventor through error, or a joint inventor is not included in an application through error" and inserting in its place the phrase "through error a person is named in an application for patent as the inventor, or through error an inventor is not named in an application."

(b) Section 256 of title 35, United States Code, is amended to read as follows:

**"§ 256. Correction of named inventor**

"Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error.

"The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Commissioner shall issue a certificate accordingly."

SEC. 7. Section 6 of title 35, United States Code, is amended by deleting paragraph (d) thereof.

SEC. 8. (a) Section 8(a) of the Trademark Act of 1946, as amended (15 U.S.C. 1058(a)), is amended (1) by deleting the word "still"; and (2) by inserting the phrase "in commerce" immediately after the word "use".

(b) Section 8(b) of the Trademark Act of 1946, as amended (15 U.S.C. 1058(b)), is amended (1) by deleting the word "still"; and (2) by inserting the phrase "in commerce" immediately after the word "use".

SEC. 9. (a) Section 13 of the Trademark Act of 1946, as amended (15 U.S.C. 1063), is amended (1) by deleting the phrase "a verified" and inserting in its place the word "an"; (2) by adding the phrase "when requested prior to the expiration of an extension" immediately after the word "cause"; and (3) by deleting the fourth sentence.

(b) Section 14 of the Trademark Act of 1946, as amended (15 U.S.C. 1064), is amended by deleting the word "verified".

SEC. 10. Section 15 of the Trademark Act of 1946, as amended (15 U.S.C. 1065), is amended by deleting the phrase "the publication" and inserting in its place the word "registration".



SEC. 11. The first sentence of section 16 of the Trademark Act of 1946, as amended (15 U.S.C. 1066), is amended to read as follows: "Upon petition showing extraordinary circumstances, the Commissioner may declare that an interference exists when application is made for the registration of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely when applied to the goods or when used in connection with the services of the applicant to cause confusion or mistake or to deceive."

SEC. 12. Section 21 of title 35, United States Code, is amended—

(1) by deleting the phrase "Day for taking action falling on Saturday, Sunday, or holiday" from the title and inserting in its place the phrase "Filing date and day for taking action";

(2) by inserting the following as subsection (a):

"(a) The Commissioner may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Commissioner.";

Filing date.

(3) by designating the existing paragraph as subsection (b); and

(4) by inserting the word "federal" in subsection (b), as designated above, immediately after the word "a".

SEC. 13. Section 6(a) of title 35, United States Code, is amended (1) by deleting the word "and", third occurrence, and inserting in its place a comma; (2) by inserting the phrase ", or exchanges of items or services" immediately after the word "programs"; and (3) by inserting the phrase "or the administration of the Patent and Trademark Office" immediately after the word "law", second occurrence.

SEC. 14. (a) Section 115 of title 35, United States Code, is amended by (1) deleting the phrase "shall be" and inserting in its place the word "is"; and (2) inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

(b) Section 261 of title 35, United States Code, is amended, in the third paragraph, by inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

(c) Section 11 of the Trademark Act of 1946, as amended (15 U.S.C. 1061), is amended by (1) deleting the phrase "shall be", first occurrence, and inserting in its place the word "is"; and (2) inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

SEC. 15. Section 13 of title 35, United States Code, is amended by deleting "(a) 9" and inserting in its place "(d)".

SEC. 16. Section 173 of title 35, United States Code, is amended to read as follows: "Patents for designs shall be granted for the term of fourteen years."

Effective dates.  
35 USC 41 note.

SEC. 17. (a) Sections 1, 2, 4, 7, and 13 through 15 of this Act shall take effect on the date of enactment of this Act. Sections 3 and 16 of this Act shall take effect on October 1, 1982. The maintenance fees provided for in section 3(b) of this Act shall not apply to patents applied for prior to the date of enactment of this Act. Each patent applied for on or after the date of enactment of this Act shall be subject to the maintenance fees established pursuant to section 3(b) of this Act or to maintenance fees hereafter established by law, as to the amounts paid and the number and timing of the payments.

(b)(1) Title 35, United States Code, is amended by inserting after section 293 the following new section of chapter 29:

35 USC 294.

**“§ 294. Voluntary arbitration**

“(a) A contract involving a patent or any right under a patent may contain a provision requiring arbitration of any dispute relating to patent validity or infringement arising under the contract. In the absence of such a provision, the parties to an existing patent validity or infringement dispute may agree in writing to settle such dispute by arbitration. Any such provision or agreement shall be valid, irrevocable, and enforceable, except for any grounds that exist at law or in equity for revocation of a contract.

Awards.  
9 USC 1 *et seq.*

“(b) Arbitration of such disputes, awards by arbitrators and confirmation of awards shall be governed by title 9, United States Code, to the extent such title is not inconsistent with this section. In any such arbitration proceeding, the defenses provided for under section 282 of this title shall be considered by the arbitrator if raised by any party to the proceeding.

35 USC 282.

“(c) An award by an arbitrator shall be final and binding between the parties to the arbitration but shall have no force or effect on any other person. The parties to an arbitration may agree that in the event a patent which is the subject matter of an award is subsequently determined to be invalid or unenforceable in a judgment rendered by a court to competent jurisdiction from which no appeal can or has been taken, such award may be modified by any court of competent jurisdiction upon application by any party to the arbitration. Any such modification shall govern the rights and obligations between such parties from the date of such modification.

Modification.

Notices.

“(d) When an award is made by an arbitrator, the patentee, his assignee or licensee shall give notice thereof in writing to the Commissioner. There shall be a separate notice prepared for each patent involved in such proceeding. Such notice shall set forth the names and addresses of the parties, the name of the inventor, and the name of the patent owner, shall designate the number of the patent, and shall contain a copy of the award. If an award is modified by a court, the party requesting such modification shall give notice of such modification to the Commissioner. The Commissioner shall, upon receipt of either notice, enter the same in the record of the prosecution of such patent. If the required notice is not filed with the Commissioner, any party to the proceeding may provide such notice to the Commissioner.

Modification.

“(e) The award shall be unenforceable until the notice required by subsection (d) is received by the Commissioner.”.

(2) The analysis for chapter 29 of title 35 of the United States Code is amended by adding at the end the following:

“294. Voluntary arbitration.”.

(c) Sections 5, 6, 8 through 12, and 17(b) of this Act shall take effect six months after enactment. 35 USC 294 note.

Approved August 27, 1982.

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**LEGISLATIVE HISTORY—H.R. 6260:**

HOUSE REPORT No. 97-542 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 8, considered and passed House.

Aug. 12, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 36 (1982):

Aug. 28, Presidential statement.

Public Law 97-248  
97th Congress

An Act

Sept. 3, 1982

[ H.R. 4961 ]

Tax Equity and  
Fiscal  
Responsibility  
Act of 1982.

26 USC 1 note.

To provide for tax equity and fiscal responsibility, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.**

(a) **SHORT TITLE.**—This Act may be cited as the “Tax Equity and Fiscal Responsibility Act of 1982”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

**TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS**

**Subtitle A—Medicare**

**PART I—CHANGES IN PAYMENTS FOR SERVICES**

**Subpart A—Amount of Payment for Institutional Services**

- Sec. 101. Payment for inpatient hospital services.
- Sec. 102. Single reimbursement limit for skilled nursing facilities.
- Sec. 103. Elimination of inpatient routine nursing salary cost differential.
- Sec. 104. Elimination of duplicate overhead payments for outpatient services.
- Sec. 105. Single reimbursement limit for home health agencies.
- Sec. 106. Prohibiting payment for Hill-Burton free care.
- Sec. 107. Prohibiting payment for anti-unionization activities.
- Sec. 108. Reimbursement of provider-based physicians.
- Sec. 109. Prohibiting recognition of payments under certain percentage arrangements.
- Sec. 110. Elimination of lesser-of-cost-or-charge provision.
- Sec. 111. Elimination of private room subsidy.

**Subpart B—Payments for Other Services**

- Sec. 112. Reimbursement for inpatient radiology and pathology services.
- Sec. 113. Reimbursement for assistants at surgery.
- Sec. 114. Payments to health maintenance organizations and competitive medical plans.
- Sec. 115. Prohibition of payment for ineffective drugs.

**Subpart C—Other Payment Provisions**

- Sec. 116. Medicare payments secondary for older workers covered under group health plans.
- Sec. 117. Interest charges on overpayments and underpayments.
- Sec. 118. Audit and medical claims review.
- Sec. 119. Private sector review initiative.
- Sec. 120. Temporary delay in periodic interim payments.

**PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT**

- Sec. 121. Medicare coverage of Federal employees.
- Sec. 122. Hospice care.
- Sec. 123. Coverage of extended care services without regard to three-day prior hospitalization requirement.
- Sec. 124. Provision temporarily holding part B premium at constant percentage of cost.
- Sec. 125. Special enrollment provisions for merchant seamen.

## PART III—MISCELLANEOUS PROVISIONS

- Sec. 126. Extending medicare proficiency examination authority.
- Sec. 127. Regulations regarding access to books and records.
- Sec. 128. Technical corrections to Omnibus Budget Reconciliation Act of 1981.

## Subtitle B—Medicaid

- Sec. 131. Copayments by medicaid recipients.
- Sec. 132. Modifications in lien provisions.
- Sec. 133. Limitation on Federal financial participation in erroneous medical assistance expenditures.
- Sec. 134. Medicaid coverage of home care for certain disabled children.
- Sec. 135. Six-month moratorium on deregulation of skilled nursing and intermediate care facilities.
- Sec. 136. Medicaid program in American Samoa.
- Sec. 137. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

## Subtitle C—Utilization and Quality Control Peer Review

- Sec. 141. Short title of subtitle.
- Sec. 142. Requirement for Secretary to enter into contracts.
- Sec. 143. Establishment of utilization and quality control peer review program.
- Sec. 144. Facilitation of private review.
- Sec. 145. Waiver of liability provision.
- Sec. 146. Medicaid provisions.
- Sec. 147. Demonstration projects for competitive bidding and other reimbursement methods.
- Sec. 148. Technical amendments.
- Sec. 149. Effective date.
- Sec. 150. Maintenance of current PSRO agreements.

## Subtitle D—Aid to Families with Dependent Children

- Sec. 151. Rounding of eligibility and benefit amounts.
- Sec. 152. Effective date of application; proration of first month's AFDC benefit.
- Sec. 153. Absence from home solely by reason of uniformed service.
- Sec. 154. Job search.
- Sec. 155. Proration of standard amount for shelter and utilities.
- Sec. 156. Limitation on Federal financial participation in erroneous assistance expenditures.
- Sec. 157. Exclusion from income of certain State payments.
- Sec. 158. Extension of time for States to establish a work incentive demonstration program.
- Sec. 159. Exclusion from income.
- Sec. 160. Technical amendments to social services and foster care provisions in 1981 Reconciliation Act.
- Sec. 161. Delayed effective date in cases requiring conforming State legislation.

## Subtitle E—Child Support Enforcement

- Sec. 171. Fee for services to non-AFDC families.
- Sec. 172. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.
- Sec. 173. Reimbursement of State agency in initial month of ineligibility for AFDC.
- Sec. 174. Reduction in certain Federal payments to States under child support enforcement program.
- Sec. 175. Technical amendments to child support enforcement provisions in 1981 Reconciliation Act.
- Sec. 176. Delayed effective date in cases requiring State legislation.

## Subtitle F—Supplemental Security Income

- Sec. 181. Effective date of application; proration of initial SSI benefit payment.
- Sec. 182. Rounding of SSI eligibility and benefit amounts.
- Sec. 183. Coordination of SSI and OASDI cost-of-living adjustments.
- Sec. 184. Phaseout of hold harmless protection.
- Sec. 185. Exclusion from resources of burial plots and certain funds set aside for burial expenses.
- Sec. 186. Mandatory passthrough under State supplementation provisions.
- Sec. 187. Treatment of unnegotiated checks under the supplemental security income program.

## Subtitle G—Unemployment Compensation

- Sec. 191. Rounding of benefit amounts.

- Sec. 192. Use of certain amounts transferred to State unemployment funds.
- Sec. 193. Treatment of certain employees of institutions of higher education.
- Sec. 194. Short-time compensation.

## TITLE II—REVENUE MEASURES

### Subtitle A—Provisions Relating to Individuals

- Sec. 201. Alternative minimum tax on taxpayers other than corporations.
- Sec. 202. Limitation on medical deduction.
- Sec. 203. Limitation on deduction for nonbusiness casualty losses.

### Subtitle B—Provisions Primarily Relating to Business

#### PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

- Sec. 204. 15 percent reduction in certain corporate preference items.
- Sec. 205. Amendments to investment credit.
- Sec. 206. Repeal of 1985 and 1986 increases in accelerated cost recovery deductions.
- Sec. 207. Section 189 made applicable to certain corporations for nonresidential real property.

#### PART II—LEASING

- Sec. 208. Limitations and additional requirements on leases under the accelerated cost recovery system.
- Sec. 209. Repeal of leasing; special rule for leases with economic substance.
- Sec. 210. Motor vehicle operating leases.

#### PART III—FOREIGN TAX

- Sec. 211. Foreign tax credit for taxes on oil and gas income.
- Sec. 212. Current taxation of foreign oil related income of controlled foreign corporations.
- Sec. 213. Possession tax credit; income tax liability incurred to the Virgin Islands.

#### PART IV—TAX-EXEMPT OBLIGATIONS

- Sec. 214. Modification of exemption for small issues.
- Sec. 215. Public approval and information reporting requirements applicable to private activity bonds.
- Sec. 216. Cost recovery for certain property financed with tax-exempt bonds.
- Sec. 217. Miscellaneous.
- Sec. 218. Treatment of certain refunding obligations.
- Sec. 219. Limitation on maturity of industrial development bonds.
- Sec. 220. Mortgage subsidy bonds.
- Sec. 221. Industrial development bonds for certain residential rental property

#### PART V—MERGERS AND ACQUISITIONS

##### Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

- Sec. 222. Partial liquidations.
- Sec. 223. Distribution of appreciated property in redemption of stock.

##### Subpart B—Certain Stock Purchases Treated as Asset Purchases

- Sec. 224. Certain stock purchases treated as asset purchases.

##### Subpart C—Miscellaneous Provisions

- Sec. 225. Clarification of section 368(a)(1)(F).
- Sec. 226. Amendments relating to bailouts through use of holding companies.
- Sec. 227. Application of attribution rules for purposes of sections 306 and 356(a)(2).
- Sec. 228. Waiver of family attribution by entities.

#### PART VI—METHODS OF ACCOUNTING

- Sec. 229. Modification of regulations on the completed contract method of accounting.
- Sec. 230. Annual accrual method of accounting extended to certain partnerships.

#### PART VII—ORIGINAL ISSUE DISCOUNT

- Sec. 231. Original issue discount taken into account on basis of constant interest rate.
- Sec. 232. Tax treatment of stripped bonds.

## PART VIII—OTHER BUSINESS PROVISIONS

- Sec. 233. Targeted jobs tax credit.
- Sec. 234. Accelerated payment of income tax by corporations.

## Subtitle C—Pensions

## PART I—CONTRIBUTION AND LOAN LIMITS

- Sec. 235. Lower contribution and benefit limits for certain annuities, etc.
- Sec. 236. Loans treated as distributions.

## PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES

- Sec. 237. Repeal of special qualification requirements.
- Sec. 238. Repeal of special limitations on deduction for self-employed individuals and subchapter S corporations.
- Sec. 239. Allowance of exclusion of death benefit for self-employed individuals.
- Sec. 240. Special rules for top heavy plans.
- Sec. 241. Effective dates.

## PART III—OTHER REQUIREMENTS

- Sec. 242. Required distributions for qualified plans.
- Sec. 243. Required distributions in case of individual retirement plans.
- Sec. 244. Limitation on exclusion for group-term life insurance purchased for employees.
- Sec. 245. Limitation on estate tax exclusions under section 2039.
- Sec. 246. Organizations performing management functions.
- Sec. 247. Existing personal service corporations may liquidate under section 333 during 1983 or 1984.
- Sec. 248. Employee leasing.
- Sec. 249. Nondiscriminatory coordination of defined contribution plans with OASDI.
- Sec. 250. Authority of Secretary to allocate income and deductions in the case of certain corporations.

## PART IV—MISCELLANEOUS

- Sec. 251. Church plans.
- Sec. 252. Deferred compensation plans for State judges.
- Sec. 253. Profit-sharing plan contributions on behalf of disabled.
- Sec. 254. Exemption for trusts which include governmental plans.

## Subtitle D—Taxation of Life Insurance Companies and Annuities

## PART I—COINSURANCE ARRANGEMENTS

## Subpart A—Modified Coinsurance Contracts

- Sec. 255. Repeal of optional treatment of policies reinsured under modified coinsurance contracts.
- Sec. 256. Special accounting rules relating to repeal of section 820.

## Subpart B—Other Reinsurance Agreements

- Sec. 257. Denial of interest deduction on indebtedness incurred in connection with reinsurance agreements.
- Sec. 258. Allocation of income, etc. in the case of other reinsurance agreements.

## PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

- Sec. 259. Increase in amount of dividend deduction allowed; pension plan reserves.
- Sec. 260. Computation of amount of life insurance reserves.
- Sec. 261. Modification of menge formula.
- Sec. 262. Consolidated returns to be computed on a bottom line basis.
- Sec. 263. Effective dates; special rules applicable to transactions before effective date.

## PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS; COMPUTATION OF RESERVES

- Sec. 264. Allowance of deduction for excess interest.
- Sec. 265. Treatment of amounts received and under annuity contracts before annuity starting date.

- Sec. 266. Flexible premium contracts.
- Sec. 267. Reduction in approximate revaluation method of computing reserves.

#### PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982

- Sec. 268. Underpayments of estimated tax for 1982.

#### Subtitle E—Employment Taxes

##### PART I—IN GENERAL

- Sec. 269. Treatment of real estate agents and direct sellers.
- Sec. 270. Simplified procedure for determining amount of employment taxes.

##### PART II—FEDERAL UNEMPLOYMENT TAX

###### Subpart A—Increase in Federal Unemployment Tax

- Sec. 271. Increase in Federal unemployment tax wage base and rate.

###### Subpart B—Other Financing Provisions

- Sec. 272. Credit reduction not to apply when State makes certain repayments.
- Sec. 273. Limitation of fifth year credit reduction.
- Sec. 274. Deferral of interest in case of certain States with high unemployment rates.
- Sec. 275. Required repayments from extended unemployment compensation account.
- Sec. 276. Treatment of certain services performed by students.
- Sec. 277. Treatment of certain alien farm workers.

##### PART III—MEDICARE COVERAGE

- Sec. 278. Medicare coverage of, and application of hospital insurance tax to, Federal employment.

#### Subtitle F—Excise Taxes

##### PART I—AIRPORT AND AIRWAY

- Sec. 279. Tax on fuel used in noncommercial aviation.
- Sec. 280. Tax on transportation by air.
- Sec. 281. Extension of Airport and Airway Trust Fund.
- Sec. 281A. Technical provisions relating to tax on transportation of persons by air.

##### PART II—COMMUNICATIONS SERVICES

- Sec. 282. Extension of excise tax on communications services.

##### PART III—CIGARETTES

- Sec. 283. Increase in tax on cigarettes.

##### PART IV—TAPS ADJUSTMENT ELIMINATED

- Sec. 284. Elimination of the TAPS adjustment.

#### Subtitle G—Miscellaneous

- Sec. 285. Two-year extension of exclusion from gross income of national research service awards.
- Sec. 286. Special rules for certain amateur sports organizations.
- Sec. 287. New Jersey general revenue sharing allocation.
- Sec. 288. Illegal payments to government officials or employees.
- Sec. 289. Debt management provisions.
- Sec. 290. Jefferson County mental health center.
- Sec. 291. Alaska native corporations.
- Sec. 292. Awarding of costs and certain fees.
- Sec. 293. Treatment of certain lending of finance businesses for purposes of the tax on personal holding companies.
- Sec. 294. Additional refunds relating to repeal of excise tax on buses.

#### TITLE III—TAXPAYER COMPLIANCE

##### Subpart A—Withholding on Interest and Dividends

- Sec. 301. Withholding on interest and dividends.
- Sec. 302. Credit against tax.
- Sec. 303. Returns regarding payments of dividends and payments of interest.
- Sec. 304. Returns regarding payments of patronage dividends.



- Sec. 305. Denial of deduction for certain taxes.
- Sec. 306. Penalties.
- Sec. 307. Conforming and clerical amendments.
- Sec. 308. Effective dates; special rules.

#### Subtitle B—Improved Information Reporting

##### PART I—EXPANDED REPORTING

- Sec. 309. Reporting of interest.
- Sec. 310. Obligations required to be registered.
- Sec. 311. Returns of brokers.
- Sec. 312. Information reporting requirements for payments of remuneration for services and direct sales.
- Sec. 313. State and local income tax refunds.
- Sec. 314. Employer reporting with respect to tips.

##### PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

- Sec. 315. Increased penalties for failure to file information return or to furnish statement.
- Sec. 316. Increase in civil penalty on failure to supply identifying numbers.
- Sec. 317. Extension of withholding to certain payments where identifying number not furnished or inaccurate.
- Sec. 318. Minimum penalty for extended failure to file.
- Sec. 319. Information returns.

#### Subtitle C—Abusive Tax Shelters, Etc.; Substantial Underpayments; False Documents; Frivolous Returns

##### PART I—ABUSIVE TAX SHELTERS, ETC.

- Sec. 320. Penalty for promoting abusive tax shelters, etc.
- Sec. 321. Action to enjoin promoters of abusive tax shelters, etc.
- Sec. 322. Procedural rules applicable to penalties under sections 6700, 6701, and 6702.

##### PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.

- Sec. 323. Penalty for substantial understatement.
- Sec. 324. Penalties for documents understating tax liability.
- Sec. 325. Fraud penalty.
- Sec. 326. Penalty for frivolous returns.
- Sec. 327. Relief from criminal penalty for failure to file estimated tax where taxpayer falls within statutory exceptions.
- Sec. 328. Adjustments to estimated tax provisions.
- Sec. 329. Increases in certain criminal fines.
- Sec. 330. Special rules with respect to certain cash.

##### Subtitle D—Administrative Summons

- Sec. 331. Special procedures for third-party summons.
- Sec. 332. Duty of third-party recordkeeper.
- Sec. 333. Limitation on use of administrative summons.

##### Subtitle E—Withholding on Pensions and Other Retirement Income

- Sec. 334. Withholding on pensions annuities, and certain other deferred income.
- Sec. 335. Partial rollovers of IRA distributions permitted.

##### Subtitle F—Transactions Outside the United States or Involving Foreign Persons

- Sec. 336. Jurisdiction of court and enforcement of summons in case of persons residing outside the United States.
- Sec. 337. Admissibility of evidence maintained in foreign countries.
- Sec. 338. Penalty for failure to furnish information with respect to certain foreign corporations.
- Sec. 339. Information requirements with respect to certain foreign-owned corporations.
- Sec. 340. Returns with respect to foreign personal holding companies.
- Sec. 341. Authority to delay date for filing certain returns relating to foreign corporations and foreign trusts.
- Sec. 342. Withholding of tax on nonresident aliens and foreign corporations.
- Sec. 343. Technical amendment relating to penalty under section 905(c).

#### Subtitle G—Modification of Interest Provisions

- Sec. 344. Interest compounded daily.
- Sec. 345. Determination of rate of interest to be made semiannually.
- Sec. 346. Restrictions on payment of interest for certain periods.

#### Subtitle H—Taxpayer Safeguard Amendments

- Sec. 347. Increase in certain exemptions from levy.
- Sec. 348. Required release of lien.
- Sec. 349. Requirement of timely notice of levy.
- Sec. 349A. Extension of period for redemption of real property.
- Sec. 350. Amount of damages in case of wrongful levy.

#### Subtitle I—Other Provisions

- Sec. 351. Disallowance of deductions relating to narcotics trafficking.
- Sec. 352. Sense of Congress with respect to providing of additional funds to Internal Revenue Service.
- Sec. 353. Report on forms.
- Sec. 354. Exemption of veterans' organizations.
- Sec. 355. Amendment to Communications Act of 1934.
- Sec. 356. Confidentiality and disclosure of returns and return information.
- Sec. 357. Civil damages against United States for unauthorized disclosures by an employee.
- Sec. 358. Disclosure for use in certain audits by General Accounting Office.

### TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

- Sec. 401. Short title.
- Sec. 402. Tax treatment of partnership items.
- Sec. 403. Requirement that statement be furnished to partner.
- Sec. 404. Returns required from all partnerships with United States partners.
- Sec. 405. Return requirement for United States persons having interest in foreign partnerships.
- Sec. 406. Special rule for certain international satellite partnerships.

### TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

- Sec. 501. Short title.
- Sec. 502. Declaration of policy.
- Sec. 503. Definitions.
- Sec. 504. National airport and airway system plans.
- Sec. 505. Airport improvement program.
- Sec. 506. Airway improvement program.
- Sec. 507. Apportionment of funds.
- Sec. 508. Use of apportioned and discretionary funds; miscellaneous conditions.
- Sec. 509. Submission and approval of project grant applications.
- Sec. 510. United States share of project costs.
- Sec. 511. Project sponsorship.
- Sec. 512. Grant agreements.
- Sec. 513. Project costs.
- Sec. 514. Payments under grant agreements.
- Sec. 515. Performance of construction work.
- Sec. 516. Use of Government-owned lands.
- Sec. 517. False statements.
- Sec. 518. Access to records.
- Sec. 519. General powers.
- Sec. 520. Civil rights.
- Sec. 521. Reports to Congress.
- Sec. 522. Report on ability of airports to finance airport development needs.
- Sec. 523. Repeals; effective date; saving provisions; and separability.
- Sec. 524. Miscellaneous amendments.
- Sec. 525. Safety certification of airports.
- Sec. 526. Contracting authority.
- Sec. 527. Study of airport access.
- Sec. 528. Part-time operation of flight service stations.
- Sec. 529. Explosive detection K-9 teams.
- Sec. 530. Release of certain conditions.
- Sec. 531. Continuation of certain certificates.
- Sec. 532. State taxation.

## TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

## Subtitle A—Extension of Benefits

Sec. 601. Short title.

Sec. 602. Federal-State agreements.

Sec. 603. Payments to States having agreements for the payment of Federal supplemental compensation.

Sec. 604. Financing provisions.

Sec. 605. Definitions.

Sec. 606. Fraud and overpayments.

## Subtitle B—Taxation of Unemployment Compensation

Sec. 611. Taxation of unemployment compensation.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II, III, and IV an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

## TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

### Subtitle A—Medicare

#### PART I—CHANGES IN PAYMENTS FOR SERVICES

##### Subpart A—Amount of Payment for Institutional Services

###### PAYMENT FOR INPATIENT HOSPITAL SERVICES

SEC. 101. (a)(1) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

“PAYMENT TO HOSPITALS FOR INPATIENT HOSPITAL SERVICES

“SEC. 1886. (a)(1)(A)(i) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in paragraph (4)) shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital for a cost reporting period to the extent such costs exceed the applicable percentage (as determined under clause (ii)) of the average of such costs for all hospitals in the same grouping as such hospital for comparable time periods.

42 USC 1395ww.

“(ii) For purposes of clause (i), the applicable percentage for hospital cost reporting periods beginning—

“(I) on or after October 1, 1982, and before October 1, 1983, is 120 percent;

“(II) on or after October 1, 1983, and before October 1, 1984, is 115 percent; and

“(III) on or after October 1, 1984, is 110 percent.

“(B)(i) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all short-term hospitals, and shall set limits for each hospital based upon the general mix of types of

Cost reporting  
period,  
limitation.

medical cases with respect to which such hospital provides services for which payment may be made under this title.

“(ii) The Secretary shall set such limits for a cost reporting period of a hospital—

“(I) by updating available data for a previous period to the immediate preceding cost reporting period by the estimated average rate of change of hospital costs industry-wide, and

“(II) by projecting for the cost reporting period by the applicable percentage increase (as defined in subsection (b)(3)(B)).

“(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower than the allowable operating costs of inpatient hospital services (as defined in paragraph (4)) recognized under this title for such hospital for such hospital’s last cost reporting period prior to the hospital’s first cost reporting period for which this section is in effect.

“(2) The Secretary shall provide for such exemptions from, and exceptions and adjustments to, the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account—

“(A) the special needs of sole community hospitals, of new hospitals, of risk based health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital’s control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

“(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title, and

“(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

“(3) The limitation established under paragraph (1)(A) shall not apply with respect to any hospital which—

“(A) is located outside of a standard metropolitan statistical area, and

“(B)(i) has less than 50 beds, and

“(ii) was in operation and had less than 50 beds on the date of the enactment of this section.

“(4) For purposes of this section, the term ‘operating costs of inpatient hospital services’ includes all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services and such costs are determined on an average per admission or per discharge basis (as determined by the Secretary).

“(b)(1) Notwithstanding sections 1814(b) but subject to the provisions of sections 1813, if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital for a cost reporting period subject to this paragraph—

“(A) are less than or equal to the target amount (as defined in paragraph (3)) for that hospital for that period, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the amount of such operating costs, plus—

“Operating  
costs of  
inpatient  
hospital  
services.”

42 USC 1395f.

42 USC 1395e.

“(i) 50 percent of the amount by which the target amount exceeds the amount of the operating costs, or

“(ii) 5 percent of the target amount,

whichever is less; or

“(B) are greater than the target amount, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to (i) the target amount, plus (ii) in the case of cost reporting periods beginning on or after October 1, 1982, and before October 1, 1984, 25 percent of the amount by which the amount of the operating costs exceeds the target amount;

except that in no case may the amount payable under this title with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).

“(2) Paragraph (1) shall not apply to cost reporting periods of hospitals beginning on or after October 1, 1985.

“(3)(A) For purposes of this subsection, the term ‘target amount’ means, with respect to a hospital for a particular 12-month cost reporting period—

“Target amount.”

“(i) in the case of the first such reporting period for which this subsection is in effect, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for such hospital for the preceding 12-month cost reporting period, and

“(ii) in the case a later reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B) for that particular cost reporting period.

“(B) For purposes of subparagraph (A), the ‘applicable percentage increase’ for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

“Applicable percentage increase.”

“(4)(A) The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under this subsection for determining the amount of payment to a hospital where events beyond the hospital’s control or extraordinary circumstances, including changes in the case mix of such hospital, create a distortion in the increase in costs for a cost reporting period (including any distortion in the costs for the base period against which such increase is measured). The Secretary may provide for such other exemptions from, and exceptions and adjustments to, such method as the Secretary deems appropriate, including those which he deems necessary to take into account a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

“(B) Paragraph (1) shall not apply to payment of hospitals which is otherwise determined under paragraph (3) of section 1814(b).

42 USC 1395f.

“(5) In the case of any hospital having any cost reporting period of other than a 12-month period, the Secretary shall determine the 12-month period which shall be used for purposes of this section.

26 USC 3111.

“(6)(A) The Secretary shall provide for an adjustment under this paragraph in the amount of payment otherwise provided a hospital under this subsection in the case of a hospital which, as of August 15, 1982, was subject to the taxes (hereinafter in this paragraph referred to as the ‘FICA taxes’) imposed by section 3111 of the Internal Revenue Code of 1954 and which is not subject to such taxes for part or all of a cost reporting period beginning on or after October 1, 1982.

Operating costs,  
estimate.

“(B) In making such adjustment for a cost reporting period the Secretary shall estimate the amount of the operating costs of inpatient hospital services that would have resulted if the hospital was subject to the FICA taxes during that period. In making such estimate the Secretary shall reduce the amount of such FICA taxes that would have been paid (but not below zero) by the amount of costs which the hospital demonstrates to the satisfaction of the Secretary were incurred in the period for pensions, health, and other fringe benefits for employees (and former employees and family members) comparable to, and in lieu of, the benefits provided under title II and this title of the Social Security Act.

42 USC 401.

“(C) If a hospital’s operating costs of inpatient hospital services estimated under subparagraph (B) is greater than the hospital’s operating costs of inpatient hospital services determined without regard to this paragraph for a cost reporting period, then the Secretary shall reduce the amount otherwise paid the hospital (respecting operating costs of inpatient hospital services) under this subsection for the period by the amount by which—

“(i) the amount that would have been paid the hospital if (I) the amount of the operating costs of inpatient hospital services estimated under subparagraph (B) were treated as the amount of the operating costs of inpatient hospital services and (II) subsection (a) did not apply to the determination, exceeds—

“(ii) the amount that would otherwise have been paid the hospital if subsection (a) (and this paragraph) did not apply; except that, in making such determination for cost reporting periods beginning on or after October 1, 1984, clause (ii) of paragraph (1)(B) shall continue to apply.

“(c)(1) The Secretary may provide, in his discretion, that payment with respect to services provided by a hospital in a State may be made in accordance with a hospital reimbursement control system in a State, rather than in accordance with the other provisions of this title, if the chief executive officer of the State requests such treatment and if—

“(A) the Secretary determines that the system, if approved under this subsection, will apply (i) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services and of revenues or expenses for inpatient hospital services provided under the State’s plan approved under title XIX;

42 USC 1396.

“(B) the Secretary has been provided satisfactory assurances as to the equitable treatment under the system of all entities (including Federal and State programs) that pay hospitals for

inpatient hospital services, of hospital employees, and of hospital patients; and

“(C) the Secretary has been provided satisfactory assurances that under the system, over 36-month periods (the first such period beginning with the first month in which this subsection applies to that system in the State), the amount of payments made under this title under such system will not exceed the amount of payments which would otherwise have been made under this title not using such system.

“(2) In determining under paragraph (1)(C) the amount of payment which would otherwise have been made under this title for a State, the Secretary may provide for appropriate adjustment of such amount to take into account previous reductions effected in the amount of payments made under this title in the State due to the operation of the hospital reimbursement control system in the State if the system has resulted in an aggregate rate of increase in operating costs of inpatient hospital services (as defined in subsection (a)(4)) under this title for hospitals in the State which is less than the aggregate rate of increase in such costs under this title for hospitals in the United States.

“(3) The Secretary shall discontinue payments under a system described in paragraph (1) if the Secretary—

“(A) determines that the system no longer meets the requirement of paragraph (1)(A) or

“(B) has reason to believe that the assurances described in subparagraph (B) or (C) of paragraph (1) are not being (or will not be) met.”.

(2) Section 1861(v)(1)(L) of such Act is amended by striking out “(i)” and all that follows through “(ii)”.

(b)(1) The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1982.

(2)(A) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement such amendments on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than March 31, 1983.

(B) Chapter 35 of title 5, United States Code, shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of Health and Human Services determines to be necessary to carry out the amendments made by this section.

(3) Section 1135 of the Social Security Act is amended by adding at the end the following new subsection:

“(c) The Secretary shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for legislation which would provide that hospitals, skilled nursing facilities, and, to the extent feasible, other providers, would be reimbursed under title XVIII of this Act on a prospective basis. The Secretary shall report such proposals to such committees not later than December 31, 1982.”.

(c)(1) Section 1814(b) of the Social Security Act is amended—

(A) by striking out “section 1813” in the matter before paragraph (1) and inserting in lieu thereof “sections 1813 and 1886”; and

95 Stat. 798.

42 USC 1395x.

42 USC 1395ww  
note.

Regulations.

5 USC 3501 *et*  
*seq.*

95 Stat. 809.

42 USC 1320b-5.

42 USC 1395.

Report to  
congressional  
committees.

42 USC 1395f.

(B) by striking out “until the Secretary determines” in the second sentence and inserting in lieu thereof “until the first day of the seventh month beginning after the date the Secretary determines and notifies the Governor of the State”.

42 USC 1395l.

(2) Section 1833(a)(2)(B) of such Act is amended by inserting “and except as may be provided in section 1886” after “except those described in subparagraph (C) of this paragraph”.

42 USC 1395x.

(d) Section 1861(v)(7) of such Act is amended by inserting “(A)” after “(7)” and by adding at the end thereof the following new subparagraph:

“(B) For further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services and waivers for certain States, see section 1886.”.

*Ante*, p. 331.

#### SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES

42 USC 1395x.

SEC. 102. (a) Section 1861(v)(1) of the Social Security Act is amended—

(1) in subparagraph (E), by striking out “; except that” and all that follows and inserting in lieu thereof a period;

(2) in subparagraph (E), by striking out “(E)” and inserting in lieu thereof “(ii)”; and

(3) by inserting after subparagraph (D) the following:

“(E)(i) Such regulations shall provide that any determination of reasonable cost with respect to services provided by hospital-based skilled nursing facilities shall be made on the basis of a single standard based on the reasonableness of costs incurred by free standing skilled nursing facilities, subject to such adjustments as the Secretary may deem appropriate.”.

Effective date.  
42 USC 1395x  
note.

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

#### ELIMINATION OF INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

95 Stat. 797.

42 USC 1395x.

SEC. 103. (a) Subparagraph (J) of section 1861(v)(1) of the Social Security Act is amended to read as follows:

“(J) Such regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities.”.

Effective date.  
42 USC 1395x  
note.

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

42 USC 1395.

#### ELIMINATION OF DUPLICATE OVERHEAD PAYMENTS FOR OUTPATIENT SERVICES

42 USC 1395u.

SEC. 104. (a) The last sentence of section 1842(b)(3) of the Social Security Act is amended by inserting after “1861(v)(1)(K)” the following: “, and in determining the reasonable charge for such services, the Secretary may limit such reasonable charge to a percentage of the amount of the prevailing charge for similar services furnished



in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility".

(b) The amendment made by subsection (a) made by this section shall be effective with respect to services furnished on or after October 1, 1982.

Effective date.  
42 USC 1395u  
note.

#### SINGLE REIMBURSEMENT LIMIT FOR HOME HEALTH AGENCIES

SEC. 105. (a) Section 1861(v)(1)(L) of the Social Security Act, as amended by section 101(a)(2) of this subtitle, is amended by inserting "free standing" after "75th percentile of such costs per visit for".

42 USC 1395x.

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after the date of the enactment of this Act.

Effective date.  
42 USC 1395x  
note.

#### PROHIBITING PAYMENT FOR HILL-BURTON FREE CARE

SEC. 106. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

42 USC 1395x.

"(M) Such regulations shall provide that costs respecting care provided by a provider of services, pursuant to an assurance under title VI or XVI of the Public Health Service Act that the provider will make available a reasonable volume of services to persons unable to pay therefor, shall not be allowable as reasonable costs."

42 USC 291a,  
300o.

(b) The amendment made by subsection (a) shall be effective with respect to any costs incurred under title XVIII of the Social Security Act, except that it shall not apply to costs which have been allowed prior to the date of the enactment of this Act pursuant to the final court order affirmed by a United States Court of Appeals.

Effective date.  
42 USC 1395x  
note.  
42 USC 1395.

#### PROHIBITING PAYMENT FOR ANTI-UNIONIZATION ACTIVITIES

SEC. 107. (a) Section 1861(v)(1) of the Social Security Act, as amended by section 106(a) of this subtitle, is further amended by adding after subparagraph (M) the following new subparagraph:

"(N) In determining such reasonable costs, costs incurred for activities directly related to influencing employees respecting unionization may not be included."

(b) The amendment made by subsection (a) shall be effective with respect to costs incurred after the date of the enactment of this Act.

Effective date.  
42 USC 1395x  
note.

#### REIMBURSEMENT OF PROVIDER-BASED PHYSICIANS

SEC. 108. (a) Title XVIII of the Social Security Act is amended by adding after section 1886 of the Social Security Act (as added by section 101(a)(1) of this subtitle) the following new section:

##### "PAYMENT OF PROVIDER-BASED PHYSICIANS

"SEC. 1887. (a)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities—

42 USC 1395xx.

"(A) which constitute professional medical services, which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an indi-

vidual patient, and which may be reimbursed as physicians' services under part B, and

"(B) which constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

"(2)(A) For purposes of cost reimbursement, the Secretary shall recognize as a reasonable cost of a hospital or skilled nursing facility only that portion of the costs attributable to services rendered by a physician in such hospital or facility which are services described in paragraph (1)(B), apportioned on the basis of the amount of time actually spent by such physician rendering such services.

"(B) In determining the amount of the payments which may be made with respect to services described in paragraph (1)(B), after apportioning costs as required by subparagraph (A), the Secretary may not recognize as reasonable (in the efficient delivery of health services) such portion of the provider's costs for such services to the extent that such costs exceed the reasonable compensation equivalent for such services. The reasonable compensation equivalent for any service shall be established by the Secretary in regulations.

"(C) The Secretary may, upon a showing by a hospital or facility that it is unable to recruit or maintain an adequate number of physicians for the hospital or facility on account of the reimbursement limits established under this subsection, grant exceptions to such reimbursement limits as may be necessary to allow such provider to provide a compensation level sufficient to provide adequate physician services in such hospital or facility."

(2) Section 1861(v)(7) of such Act, as amended by section 101(d) of this subtitle, is further amended by adding at the end the following new subparagraph:

"(C) For provisions restricting payment for provider-based physicians' services, see section 1887."

(c) The Secretary of Health and Human Services shall first promulgate regulations to carry out section 1887(a) of the Social Security Act not later than October 1, 1982. Such regulations shall become effective on October 1, 1982, and shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such regulations shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

#### PROHIBITING RECOGNITION OF PAYMENTS UNDER CERTAIN PERCENTAGE ARRANGEMENTS

SEC. 109. (a) Section 1887 of the Social Security Act (as added by section 108(a) of this subtitle) is amended—

(1) by inserting "AND PAYMENT UNDER CERTAIN PERCENTAGE ARRANGEMENTS" at the end of its heading, and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), in the case of a provider of services which is paid under this title on a reasonable cost basis, or other basis related to costs that are reasonable, and which has entered into a contract for the purpose of having services furnished for or on behalf of it, the Secretary may not include any cost incurred by the provider under the contract if the amount

*Ante*, p. 336.

*Ante*, p. 337.

Regulations.  
42 USC 1395xx  
note.  
*Ante*, p. 337.

42 USC 1395.

payable under the contract by the provider for that cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement.

"(2) Paragraph (1) shall not apply—

"(A) to services furnished by a physician and described in subsection (a)(1)(B) and covered by regulations in effect under subsection (a), and

"(B) under regulations established by the Secretary, where the amount involved under the percentage contract is reasonable and the contract—

"(i) is a customary commercial business practice, or

"(ii) provides incentives for the efficient and economical operation of the provider of services."

(b)(1) Section 1861(v)(1)(H)(iii) of such Act is amended by striking out "(I)" and by striking out ", or (II)" and all that follows through "furnished by the agency".

42 USC 1395x.

(2) Section 1861(v)(7)(C) of such Act, as added by section 108(b)(2) of this subtitle, is further amended by inserting "and for payments under certain percentage arrangements" after "services".

*Ante*, p. 338.

(c)(1) The amendments made by this section shall become effective on the date of the enactment of this Act, except that section 1887(b)(1) of the Social Security Act shall not apply before October 1, 1982, to services furnished by a physician and described in section 1887(a)(1)(B) of such Act.

Effective date.  
42 USC 1395xx  
note.  
*Ante*, p. 338.

(2) In the case of a contract with a provider of services entered into prior to the date of the enactment of this Act, the amendment made by subsection (a) shall apply to payments under such contract (A) 30 days after the first date (after such date of enactment) the provider of services may unilaterally terminate the contract, or (B) one year after the date of the enactment of this Act, whichever is earlier.

(3) The amendment made by subsection (b)(1) shall not apply to contracts entered into before the date of the enactment of this Act.

42 USC 1395x  
note.

#### ELIMINATION OF LESSER-OF-COST-OR-CHARGE PROVISION

SEC. 110. Section 1886 of the Social Security Act, as added by section 101(a)(1) of this subtitle, is amended by adding at the end the following new subsection:

*Ante*, p. 331.

"(d)(1) The lesser-of-cost-or-charges provisions (described in paragraph (2)) will not apply in the case of services provided by a class of provider of services if the Secretary determines and certifies to Congress that the failure of such provisions to apply to the services provided by that class of providers will not result in any increase in the amount of payments made for those services under this title. Such change will take effect with respect to services furnished, or cost reporting periods of providers, on or after such date as the Secretary shall provide in the certification. Such change for a class of provider shall be discontinued if the Secretary determines and notifies Congress that such change has resulted in an increase in the amount of payments made under this title for services provided by that class of provider.

"(2) The lesser-of-cost-or-charges provisions referred to in paragraph (1) are as follows:

"(A) Clause (B) of paragraph (1) and paragraph (2) of section 1814(b).

42 USC 1395f.

- 42 USC 1395l.           “(B) So much of subparagraph (A) of section 1833(a)(2) as provides for payment other than of the reasonable cost of such services, as determined under section 1861(v).  
 42 USC 1395x.           “(C) Subclause (II) of clause (i) and clause (ii) of section 1833(a)(2)(B).”.

## ELIMINATION OF PRIVATE ROOM SUBSIDY

42 USC 1395x note.           SEC. 111. (a) The Secretary of Health and Human Services shall, pursuant to section 1861(v)(2) of the Social Security Act, not allow as a reasonable cost the estimated amount by which the costs incurred by a hospital or skilled nursing facility for nonmedically necessary private accommodations for medicare beneficiaries exceeds the costs which would have been incurred by such hospital or facility for semiprivate accommodations.

Regulations.       (b) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) as may be necessary to implement subsection (a) by October 1, 1982. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

## Subpart B—Payments for Other Services

## REIMBURSEMENT FOR INPATIENT RADIOLOGY AND PATHOLOGY SERVICES

42 USC 1395l.       SEC. 112. (a) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following: “(B) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,”;

(2) by inserting “and” at the end of clause (F); and

(3) by striking out “and (H)” and all that follows through “for such items and services.”.

(b) Clause (1) of section 1833(b) of such Act is amended to read as follows: “(1) such total amount shall not include expenses incurred for items and services described in section 1861(s)(10).”.

Effective date.  
 42 USC 1395l note.       (c) The amendments made by this section shall apply with respect to items and services furnished on or after October 1, 1982.

## REIMBURSEMENT FOR ASSISTANTS AT SURGERY

42 USC 1395u.       SEC. 113. (a) Section 1842(b)(6) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

42 USC 1395x.       “(D)(i) In the case of physicians’ services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), no payment shall be made under this part for services of assistants at surgery with respect to a surgical procedure if such hospital has a training program relating to the medical specialty required for such surgical procedure and a qualified individual on the staff of the hospital is available to provide such services; except that payment may be made under this part for such

services, to the extent that such payment is otherwise allowed under this paragraph, if such services, as determined under regulations of the Secretary—

“(I) are required due to exceptional medical circumstances,

“(II) are performed by team physicians needed to perform complex medical procedures, or

“(III) constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery, and under such other circumstances as the Secretary determines by regulation to be appropriate.

“(ii) For purposes of this subparagraph, the term ‘assistant at surgery’ means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

“Assistant at surgery.”

“(iii) The Secretary shall determine appropriate methods of reimbursement of assistants at surgery where such services are reimbursable under this part.”

(b)(1) The amendment made by subsection (a) is effective with respect to services performed on or after October 1, 1982.

Effective date.  
42 USC 1395u  
note.

(2) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement the amendment made by subsection (a) on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

#### PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 114. (a) Section 1876 of the Social Security Act is amended to read as follows:

42 USC  
1395mm.

#### “PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

“SEC. 1876. (a)(1)(A) The Secretary shall annually determine—

“(i) a per capita rate of payment for each class of individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

42 USC 1395c,  
1395j.

“(ii) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term ‘risk-sharing contract’ means a contract entered into under subsection (g) and the term ‘reasonable cost reimbursement contract’ means a contract entered into under subsection (h).

Definitions.

“(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

“(C) The annual per capita rate of payment for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in paragraph (4)) for that class.

“(D) In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (C) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

“(E) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

“(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

“(3) Payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

“(4) For purposes of this section, the term ‘adjusted average per capita cost’ means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than an eligible organization or, in the case of services covered only under section 1861(s)(2)(H), if the services were to be furnished by a physician or as an incident to a physician’s service.

“(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

“(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

“(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

“(6) If an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organi-

*Ante*, p. 335.  
42 USC 1395l.

“Adjusted  
average per  
capita cost.”

42 USC 1395h,  
1395u.

*Post*, p. 350.

42 USC 1395r.

zation shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

“(b) For purposes of this section, the term ‘eligible organization’ means a public or private entity (which may be a health maintenance organization or a competitive medical plan), organized under the laws of any State, which—

“Eligible organization.”

“(1) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), or

42 USC 300e-9.

“(2) meets the following requirements:

“(A) The entity provides to enrolled members at least the following health care services:

“(i) Physicians’ services performed by physicians (as defined in section 1861(r)(1)).

42 USC 1395x.

“(ii) Inpatient hospital services.

“(iii) Laboratory, X-ray, emergency, and preventive services.

“(iv) Out-of-area coverage.

“(B) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

“(C) The entity provides physicians’ services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

“(D) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (1), except that such entity may—

“(i) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in subparagraph (A) the aggregate value of which exceeds \$5,000 in any year,

“(ii) obtain insurance or make other arrangements for the cost of health care service listed in subparagraph (A) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

“(iii) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

“(iv) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

“(E) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

42 USC 1396.

Paragraph (2)(A)(ii) shall not apply to an entity which had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

“(c)(1) The Secretary may not enter into a contract under this section with an eligible organization unless it meets the requirements of this subsection and subsection (e) with respect to members enrolled under this section.

42 USC 1301.

“(2) The organization must provide to members enrolled under this section, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

42 USC 1395c,  
1395j.

“(A) only those services covered under parts A and B of this title, for those members entitled to benefits under part A and enrolled under part B, or

“(B) only those services covered under part B, for those members enrolled only under such part,

which are available to individuals residing in the geographic area served by the organization, except that (i) the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and (ii) in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

“(3)(A) Each eligible organization must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (f) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the organization.

“(B) An individual may enroll under this section with an eligible organization in such manner as may be prescribed in regulations and may terminate his enrollment with the eligible organization as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations.

“(C) The Secretary may prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

“(D) The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual



because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(4) The organization must—

"(A) make the services described in paragraph (2) (and such other health care services as such individuals have contracted for) (i) available and accessible to each such individual, within the area served by the organization, promptly as appropriate and in a manner which assures continuity, and (ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to services which are described in subparagraph (A) and which are provided to such an individual other than through the organization, if (i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and (ii) it was not reasonable given the circumstances to obtain the services through the organization.

"(5)(A) The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this section.

"(B) A member enrolled with an eligible organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is \$100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is \$1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review.

42 USC 405.

"(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program (A) stresses health outcomes and (B) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(d) Subject to the provisions of subsection (c)(3), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any eligible organization with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides.

42 USC 1395c,  
1395j.

"(e)(1) In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B) to individuals who are enrolled under this section with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with

respect to services covered under part B) to individuals who are enrolled under this section with the organization and enrolled under part B only

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

42 USC 1395c,  
1395j.

“(2) If the eligible organization provides to its members enrolled under this section services in addition to services covered under parts A and B of this title, election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (c)(2)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

“(A) the portion of such organization’s premium rate charged, with respect to such additional services, to members enrolled under this section, and

“(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services.

“Adjusted  
community  
rate.”

“(3) For purposes of this section, the term ‘adjusted community rate’ for a service or services means, at the election of an eligible organization, either—

“Community  
rating system.”

“(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this section with an eligible organization if the rate of payment were determined under a ‘community rating system’ (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

95 Stat. 575.  
42 USC 300e-1.

“(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this section with the eligible organization, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

“(4) Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this section for an illness or injury for which the member is entitled to benefits under a workmen’s compensation law or plan of the United States or a State, under an automobile or

liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

“(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

“(B) such member to the extent that the member has been paid under such law, plan, or policy for such services.

“(f)(1) Each eligible organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

42 USC 1396.  
Waiver.

“(2) The Secretary may modify or waive the requirement imposed by paragraph (1) only if the Secretary determines that—

“(A) special circumstances warrant such modification or waiver, and

“(B) the eligible organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

“(g)(1) The Secretary may enter a risk-sharing contract with any eligible organization, as defined in subsection (b)(1), which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urbanized areas.

Risk-sharing  
contract.

“(2) Each risk-sharing contract shall provide that—

Provisions.

“(A) if the adjusted community rate, as defined in subsection (e)(3), for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or

42 USC 1395c,  
1395j.

“(B) if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part) for members enrolled under this section with the organization and entitled to benefits under part B only

is less than the average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of an annual contract period for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced); except that this paragraph shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced). If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under subsection (a)(1)

at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this section.

“(3) The additional benefits referred to in paragraph (2) are—

“(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this section, or

“(B) the provision of additional health benefits,

or both.

“(h)(1) If—

“(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this section, or

“(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (g)(1),

the Secretary may, if he is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

42 USC 1395x.

“(2) A reasonable cost reimbursement contract under this subsection may, at the option of such organization, provide that the Secretary—

“(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to subsection (d), and

*Ante*, p. 331.

“(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

“(3) Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in subsection (a)(1).

“(4) Any reasonable cost reimbursement contract with an eligible organization under this subsection shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

“(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in subsection

(a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

“(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

“(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

Filing of a consolidated financial statement.

“(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

Distribution of profits.

“(i)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the eligible organization involved as he may provide in regulations), if he finds that the organization—

“(A) has failed substantially to carry out the contract,

“(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

“(C) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).

“(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

“(3) Each contract under this section—

“(A) shall provide that the Secretary, or any person or organization designated by him—

“(i) shall have the right to inspect or otherwise evaluate (I) the quality, appropriateness, and timeliness of services performed under the contract and (II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

“(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain (I) to the ability of the organization to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

“(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization; and

- 42 USC 300e-17. “(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members); and
- 42 USC 300e. “(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.
- “(4) The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.
- “(5) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.”.
- 42 USC 1395x. (b) Section 1861(s)(2) of the Social Security Act is amended—
- (1) by striking out “and” at the end of subparagraph (F);
- (2) by inserting “and” after the semicolon in subparagraph (G); and
- (3) by adding after subparagraph (G) the following new subparagraph:
- “(H) services furnished pursuant to a contract under section 1876 to a member of an eligible organization by a physician assistant or by a nurse practitioner (as defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician’s service;”.
- Ante*, p. 341. (c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to services furnished on or after the initial effective date (as defined in paragraph (4)), except that such amendment shall not apply—
- (A) with respect to services furnished by an eligible organization to any individual who is enrolled with that organization under an existing cost contract (as defined in paragraph (3)(A)) and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the organization first enters into a new risk-sharing contract (as defined in paragraph (3)(D)) unless—
- (i) the individual requests at any time that the amendment apply, or
- (ii) the Secretary determines at any time that the amendment should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the eligible organization;
- (B) with respect to services furnished by an eligible organization during the five-year period beginning on the initial effective date, if—
- (i) the organization has an existing risk-sharing contract (as defined in paragraph (3)(B)) on the initial effective date, or
- 42 USC 1395mm note.
- 42 USC 1395c, 1395j.

(ii) on the date of the enactment of this Act the organization was furnishing services pursuant to an existing demonstration project (as defined in paragraph (3)(C)), such demonstration project is concluded before the initial effective date, and before such initial effective date the organization enters into an existing risk-sharing contract, unless the organization requests that the amendment apply earlier; or

(C) with respect to services furnished by an eligible organization during the period of an existing demonstration project if on the initial effective date the organization was furnishing services pursuant to the project and if the project concludes after such date.

(2)(A) In the case of an eligible organization which has in effect an existing cost contract (as defined in paragraph (3)(A)) on the initial effective date, the organization may receive payment under a new risk-sharing contract with respect to a current, nonrisk medicare enrollee (as defined in subparagraph (C)) only to the extent that the organization enrolls, for each such enrollee, two new medicare enrollees (as defined in subparagraph (D)). The selection of those current nonrisk medicare enrollees with respect to whom payment may be so received under a new risk-sharing contract shall be made in a nonbiased manner.

(B) Subparagraph (A) shall not be construed to prevent an eligible organization from providing for enrollment, on a basis described in subsection (a)(6) of section 1876 of the Social Security Act (as amended by this Act, other than under a reasonable cost reimbursement contract), of current, nonrisk medicare enrollees and from providing such enrollees with some or all of the additional benefits described in section 1876(g)(2) of the Social Security Act (as amended by this Act), but (except as provided in subparagraph (A))—

*Ante*, p. 341.

(i) payment to the organization with respect to such enrollees shall only be made in accordance with the terms of a reasonable cost reimbursement contract, and

(ii) no payment may be made under section 1876 of such Act with respect to such enrollees for any such additional benefits. Individuals enrolled with the organization under this subparagraph shall be considered to be individuals enrolled with the organization for the purpose of meeting the requirement of section 1876(g)(2) of the Social Security Act (as amended by this Act).

(C) For purposes of this paragraph, the term “current, nonrisk medicare enrollee” means, with respect to an organization, an individual who on the initial effective date—

“Current, nonrisk medicare enrollee.”

(i) is enrolled with that organization under an existing cost contract, and

(ii) is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act.

(D) For purposes of this paragraph, the term “new medicare enrollee” means, with respect to an organization, an individual who—

42 USC 1395c, 1395j.

(i) is enrolled with the organization after the date the organization first enters into a new risk-sharing contract,

(ii) at the time of such enrollment is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act, and

(iii) was not enrolled with the organization at the time the individual became entitled to benefits under part A, or to enroll in part B, of such title.

Definitions.

(3) For purposes of this subsection:

*Ante*, p. 341.

42 USC 1395l.

(A) The term "existing cost contract" means a contract which is entered into under section 1876 of the Social Security Act, as in effect before the initial effective date, or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act, and which is not an existing risk-sharing contract or an existing demonstration project.

(B) The term "existing risk-sharing contract" means a contract entered into under section 1876(i)(2)(A) of the Social Security Act, as in effect before the initial effective date.

81 Stat. 930.

86 Stat. 1390.

42 USC 1395.

(C) The term "existing demonstration project" means a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, relating to the provision of services for which payment may be made under title XVIII of the Social Security Act.

(D) The term "new risk-sharing contract" means a contract entered into under section 1876(g) of the Social Security Act, as amended by this Act.

(E) The term "reasonable cost reimbursement contract" means a contract entered into under section 1833(a)(1) of the Social Security Act or under section 1876(h) of such Act, as amended by this Act.

(4) As used in this section, the term "initial effective date" means—

(A) the first day of the thirteenth month which begins after the date of the enactment of this Act, or

(B) the first day of the first month after the month in which the Secretary of Health and Human Services notifies the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that he is reasonably certain that the methodology to make appropriate adjustments (referred to in section 1876(a)(4) of the Social Security Act, as amended by this Act) has been developed and can be implemented to assure actuarial equivalence in the estimation of adjusted average per capita costs under that section, whichever is later.

Study.

42 USC 1395mm  
note.

Report to  
Congress.

(d) The Secretary of Health and Human Services shall conduct a study of the additional benefits selected by eligible organizations pursuant to section 1876(g)(2) of the Social Security Act, as amended by subsection (a) of this section. The Secretary shall report to the Congress within 24 months of the initial effective date (as defined in subsection (c)(4)) with respect to the findings and conclusions made as a result of such study.

Study.

42 USC 1395mm  
note.

(e) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicare beneficiaries of their memberships in organizations with contracts under section 1876 of the Social Security Act. Such study may be coordinated with the study provided for under section 2178(d) of the Omnibus Budget Reconciliation Act of 1981. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in such organizations and the quality of such care when provided on a fee-for-service

95 Stat. 813.  
42 USC 1396a  
note.



basis. The Secretary shall submit an interim report to the Congress, within two years after the initial effective date (as defined in subsection (c)(4)), and a final report within five years after such date containing the respective interim and final findings and conclusions made as a result of such study.

Report to  
Congress.

#### PROHIBITION OF PAYMENT FOR INEFFECTIVE DRUGS

SEC. 115. (a) Effective September 30, 1982, section 131 of Public Law 97-92 is repealed, and the provisions of such section, and of section 210 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982 (H.R. 4560), as passed by the House of Representatives on October 6, 1981, and of section 209 of such Act as reported by the Senate Committee on Appropriations on November 9, 1981, shall not apply to any sums appropriated for fiscal year 1983 or any succeeding fiscal year.

Repeal.  
95 Stat. 1199.

(b) No provision of law limiting the use of funds for purposes of enforcing or implementing section 1862(c) or section 1903(i)(5) of the Social Security Act, section 2103 of the Omnibus Budget Reconciliation Act of 1981, or any rule or regulation issued pursuant to any such section (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations) shall apply to any period after September 30, 1982, unless such provision of law is enacted after the date of the enactment of this Act and specifically states that such provision is to supersede this section.

42 USC 1395y  
note.  
42 USC 1395y,  
1396b.  
95 Stat. 787.

### Subpart C—Other Payment Provisions

#### MEDICARE PAYMENTS SECONDARY FOR OLDER WORKERS COVERED UNDER GROUP HEALTH PLANS

SEC. 116. (a) Section 4 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection:

29 USC 623.

“(g)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69 shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee under age 65.

“(2) For purposes of paragraph (1), the term ‘group health plan’ has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.”

“Group health  
plan.”

(b) Section 1862(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

26 USC 162.  
42 USC 1395y.

“(3)(A)(i) Payment under this title may not be made, except as provided in clause (ii), with respect to any item or service furnished during the period described in clause (iii) to an individual who is over 64 but under 70 years of age (or to the spouse of such individual, if the spouse is over 64 but under 70 years of age) who is employed at the time such item or service is furnished to the extent that payment with respect to expenses for such item or service has been made, or can reasonably be expected to be made, under a group health plan (as defined in clause (iv)) under which such individual is covered by reason of such employment.

“(ii) Any payment under this title with respect to any item or service during the period described in clause (iii) shall be condi-

"Waiver."

tioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under a group health plan. The Secretary may waive the provisions of this clause in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

42 USC 426.

"(iii) The provisions of clauses (i) and (ii) shall apply to an individual only for the period beginning with the month in which such individual becomes entitled to benefits under this title under section 226(a) and ending with the month in which such individual attains the age of 70 and shall not include any month for which the individual would, upon application, be entitled to benefits under section 226A.

42 USC 426-1.

"Group health plan."

26 USC 162.

"(iv) For purposes of this paragraph, the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.

"(B) Where payment for an item or service under a group health plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(i) such payment under this title may not exceed an amount which would be payable under this title for such item or service in the absence of such group health plan; and

"(ii) such payment under this title, when combined with the amount payable under such plan, may not exceed—

*Ante*, p. 331.

"(I) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis; and

"(II) in the case of an item or service for which payment is authorized under this title on another basis, the greater of—

"(a) the amount which would be payable under the group health plan (without regard to deductibles and coinsurance under such plan), or

"(b) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title)."

Effective date.  
29 USC 623  
note.

(c) The amendment made by subsection (a) shall become effective on January 1, 1983, and the amendment made by subsection (b) shall apply with respect to items and services furnished on or after such date.

#### INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS

42 USC 1395g.

SEC. 117. (a)(1) Section 1815 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) Whenever a final determination is made that the amount of payment made under this part to a provider of services was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate deter-

mined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.”

(2) Section 1833 of such Act is amended by adding at the end the following new subsection: 42 USC 1395l.

“(j) Whenever a final determination is made that the amount of payment made under this part either to a provider of services or to another person pursuant to an assignment under section 1842(b)(3)(B)(ii) was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.”. 42 USC 1395u.

(b) The amendments made by subsection (a) apply to final determinations made on or after the date of the enactment of this Act. 42 USC 1395g note.

#### AUDIT AND MEDICAL CLAIMS REVIEW

SEC. 118. In addition to any funds otherwise provided for fiscal years 1983, 1984, and 1985 for payments to intermediaries and carriers under agreements entered into under sections 1816 and 1842 of the Social Security Act, there are transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Fund in such proportions as the Secretary of Health and Human Services determines to be appropriate, an additional \$45,000,000 for each of such fiscal years for payments to such intermediaries and carriers under such agreements to be used exclusively for the purpose of carrying out provider cost audits and reviews of medical necessity, consistent with the provisions of sections 1816 and 1842 of the Social Security Act. 42 USC 1395h note. 42 USC 1395h, 1395u.

#### PRIVATE SECTOR REVIEW INITIATIVE

SEC. 119. (a) The Secretary of Health and Human Services shall undertake an initiative to improve medical review by intermediaries and carriers under title XVIII of the Social Security Act and to encourage similar review efforts by private insurers and other private entities. The initiative shall include the development of specific standards for measuring the performance of such intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services. 42 USC 1395cc note. 42 USC 1395.

(b) Where such review activity results in the denial of payment to providers of services under title XVIII of the Social Security Act, such providers shall be prohibited, in accordance with sections 1866 and 1879 of such title, from collecting any payments from beneficiaries unless otherwise provided under such title.

#### TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 120. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that— 42 USC 1395g note. 42 USC 1395g.

(1) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

(2) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985.

## **PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT**

### **MEDICARE COVERAGE OF FEDERAL EMPLOYEES**

SEC. 121. For provisions providing certain employees of the United States and instrumentalities thereof with entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act, see section 278 of this Act.

*Post*, p. 559.

### **HOSPICE CARE**

42 USC 1395c.

SEC. 122. (a)(1) Section 1811 of the Social Security Act is amended by striking out “and home health services” and inserting in lieu thereof “home health services, and hospice care”.

45 USC 231f.

(2) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting “hospice care,” after “home health services,”.

42 USC 1395d.

(b)(1) Section 1812(a) of the Social Security Act is amended by striking out “and” at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”, and by adding after paragraph (3) the following new paragraph:

“(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (d)(1).”.

(2) Section 1812 of such Act is further amended by inserting after subsection (c) the following new subsection:

“(d)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual’s lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

“(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

“(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

“(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

“(I) related to the treatment of the individual’s condition with respect to which a diagnosis of terminal illness has been made or

“(II) equivalent to (or duplicative of) hospice care; except that clause (ii) shall not apply to physicians’ services furnished by the individual’s attending physician (if not an employee of the hospice program) or to other than services provided by (or under arrangements made by) the hospice program.

“(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

“(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subsection (a)(4) and subparagraph (A)) the individual shall be deemed to have been provided such benefits during such entire period, and

“(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

“(C) An individual may, once in each such period, change the hospice program with respect to which the election is made and such change shall not be considered a revocation of an election under subparagraph (B).

“(D) For purposes of this title, an individual’s election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual’s revocation or change of election with respect to that election takes effect.”.

(c)(1) Section 1814(a) of the Social Security Act is amended by striking out “and” at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof “; and”, and by inserting after paragraph (7) the following new paragraph: 42 USC 1395f.

“(8) in the case of hospice care provided an individual—

“(A)(i) in the first 90-day period—

“(I) the individual’s attending physician (as defined in section 1861(dd)(3)(B)), and

*Post*, p. 359.

“(II) the medical director (or physician member of the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program providing (or arranging for) the care,

each certify, not later than two days after hospice care is initiated, that the individual is terminally ill (as defined in section 1861(dd)(3)(A)), and

“(ii) in a subsequent 90- or 30-day period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;

“(B) a written plan for providing hospice care with respect to such individual has been established (before such care is provided by, or under arrangements made by, that hospice program) and is periodically reviewed by the individual’s attending physician and by the medical director (and the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program; and

“(C) such care is being or was provided pursuant to such plan of care.”.

42 USC 1395f.

(2)(A) Section 1814(b) of such Act is amended by inserting “(other than a hospice program providing hospice care)” after “The amount paid to any provider of services”.

(B) Section 1814 of such Act is further amended by adding at the end the following new subsection:

“PAYMENT FOR HOSPICE CARE

*Post*, p. 361.

“(i)(1) Subject to the limitation under paragraph (2) and the provisions of section 1813(a)(4), the amount paid to a hospice program with respect to hospice care for which payment may be made under this part shall be an amount equal to the costs which are reasonable and related to the cost of providing hospice care or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations (including those authorized under section 1861(v)(1)(A)), except that no payment may be for bereavement counseling and no reimbursement may be made for other counseling services (including nutritional and dietary counseling) as separate services.

“(2)(A) The amount of payment made under this part for hospice care provided by (or under arrangements made by) a hospice program located in a region (as defined by the Secretary) for an accounting year may not exceed the ‘cap amount’ for the region for the year (computed under subparagraph (B)) multiplied by the number of medicare beneficiaries in the hospice program in that year (determined under subparagraph (C)).

“Cap amount.”

“(B) For purposes of subparagraph (A), the ‘cap amount’ for a region for a year is computed as follows:

“(i) The Secretary, using records of the program under this title, shall identify individuals (or a representative sample of such individuals)—

“(I) who died during the base period (as defined in clause (v)),

“(II) with respect to whom the primary cause of death was cancer, and

“(III) who, during the six-month period preceding death, were provided benefits under this title.

“(ii) The Secretary shall determine a national average medicare per capita expenditure amount by (I) determining (or estimating) the amount of payments made under this title with respect to services provided to individuals identified in clause (i) during the six months before death, and (II) dividing such amount of payments by the number of such individuals.

“(iii) The Secretary, using the best available data, shall then compute a regional average medicare per capita expenditure amount for each region, by adjusting the national average medicare per capita expenditure amount (computed under clause (ii)) to reflect the relative difference between that region’s average cost of delivering health care and the national average cost of delivering health care.

“Cap amount.”

“(iv) The ‘cap amount’ for a region for an accounting year is 40 percent of the regional average determined under clause (iii) for that region, increased or decreased by the same percentage as the percentage increase or decrease, respectively, in the medical care expenditure category of the consumer price index for all urban consumers (U.S. city average), published by the

Bureau of Labor Statistics, from the fourth month of the base period to the fifth month of the accounting year.

“(v) For purposes of this subparagraph, the term ‘base period’ means the most recent period of 12 months (ending before the date proposed regulations are first issued to carry out this paragraph) for which the Secretary determines he has sufficient data to make the determinations required under clauses (i) through (iii).”

“Base period.”

“(C) For purposes of subparagraph (A), the ‘number of medicare beneficiaries’ in a hospice program in an accounting year is equal to the number of individuals who have made an election under subsection (d) with respect to the hospice program and have been provided hospice care by (or under arrangements made by) the hospice program under this part in the accounting year, such number reduced to reflect the proportion of hospice care that each such individual was provided in a previous or subsequent accounting year or under a plan of care established by another hospice program.”

“Number of medicare beneficiaries.”

(3) Section 1816(e) of such Act is amended by adding at the end thereof the following new paragraph:

42 USC 1395h.

“(5) Notwithstanding any other provision of this title, the Secretary shall designate the agency or organization which has entered into an agreement under this section to perform functions under such an agreement with respect to each hospice program, except that with respect to a hospice program which is a subdivision of a provider of services (and such hospice program and provider of services are under common control) due regard shall be given to the agency or organization which performs the functions under this section for the provider of services.”

(d)(1) Section 1861(u) of the Social Security Act is amended by inserting “hospice program,” after “home health agency,”.

42 USC 1395x.

(2) Section 1861(w)(1) of such Act is amended by striking out “or home health agency” and by inserting in lieu thereof “home health agency, or hospice program”.

(3) Section 1861 of such Act is further amended by adding at the end the following new subsection:

“HOSPICE CARE; HOSPICE PROGRAM

“(dd)(1) The term ‘hospice care’ means the following items and services provided to a terminally ill individual by, or by others under arrangements made by, a hospice program under a written plan (for providing such care to such individual) established and periodically reviewed by the individual’s attending physician and by the medical director (and by the interdisciplinary group described in paragraph (2)(B)) of the program—

“Hospice care.”

“(A) nursing care provided by or under the supervision of a registered professional nurse,

“(B) physical or occupational therapy or speech-language pathology,

“(C) medical social services under the direction of a physician,

“(D)(i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,

“(E) medical supplies (including drugs and biologicals) and the use of medical appliances, while under such a plan,

“(F) physicians’ services,

“(G) short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not be provided consecutively over longer than five days, and

“(H) counseling (including dietary counseling) with respect to care of the terminally ill individual and adjustment to his death.

The care and services described in subparagraphs (A) and (D) may be provided on a 24-hour, continuous basis only during periods of crisis (meeting criteria established by the Secretary) and only as necessary to maintain the terminally ill individual at home.

“Hospice program.”

“(2) The term ‘hospice program’ means a public agency or private organization (or a subdivision thereof) which—

“(A)(i) is primarily engaged in providing the care and services described in paragraph (1) and makes such services available (as needed) on a 24-hour basis and which also provides bereavement counseling for the immediate family of terminally ill individuals,

“(ii) provides for such care and services in individuals’ homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the agency or organization, except that—

“(I) the agency or organization must routinely provide directly substantially all of each of the services described in subparagraphs (A), (C), (F), and (H) of paragraph (1), and

“(II) in the case of other services described in paragraph (1) which are not provided directly by the agency or organization, the agency or organization must maintain professional management responsibility for all such services furnished to an individual, regardless of the location or facility in which such services are furnished; and

“(iii) provides assurances satisfactory to the Secretary that the aggregate number of days of inpatient care described in paragraph (1)(G) provided in any 12-month period to individuals who have an election in effect under section 1812(d) with respect to that agency or organization does not exceed 20 percent of the aggregate number of days during that period on which such elections for such individuals are in effect;

42 USC 1395d.

“(B) has an interdisciplinary group of personnel which—

“(i) includes at least—

“(I) one physician (as defined in subsection (r)(1)),

“(II) one registered professional nurse, and

“(III) one social worker,

employed by the agency or organization, and also includes at least one pastoral or other counselor,

“(ii) provides (or supervises the provision of) the care and services described in paragraph (1), and

“(iii) establishes the policies governing the provision of such care and services;

“(C) maintains central clinical records on all patients;

“(D) does not discontinue the hospice care it provides with respect to a patient because of the inability of the patient to pay for such care;



“(E)(i) utilizes volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintains records on the use of these volunteers and the cost savings and expansion of care and services achieved through the use of these volunteers;

“(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law; and

“(G) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

“(3)(A) An individual is considered to be ‘terminally ill’ if the individual has a medical prognosis that the individual’s life expectancy is 6 months or less. “Terminally ill.”

“(B) The term ‘attending physician’ means, with respect to an individual, the physician (as defined in subsection (r)(1)), who may be employed by a hospice program, whom the individual identifies as having the most significant role in the determination and delivery of medical care to the individual at the time the individual makes an election to receive hospice care. “Attending physician.”

“(4)(A) An entity which is certified as a provider of services other than a hospice program shall be considered, for purposes of certification as a hospice program, to have met any requirements under paragraph (2) which are also the same requirements for certification as such other type of provider. The Secretary shall coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type.

“(B) Any entity which is certified as a hospice program and as a provider of another type shall have separate provider agreements under section 1866 and shall file separate cost reports with respect to costs incurred in providing hospice care and in providing other services and items under this title.” 42 USC 1395cc.

(e) Section 1813(a) of such Act is amended by adding at the end the following new paragraph: 42 USC 1395e.

“(4)(A) The amount payable for hospice care shall be reduced—

“(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to an amount (not to exceed \$5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

“(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care; Ante, p. 358.

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term ‘hospice

“Hospice coinsurance period.”

*Ante*, p. 356.

coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(d) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

"(B) During the period of an election by an individual under section 1812(d)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished."

42 USC 1395y.

(f) Section 1862(a) of the Social Security Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) which, except for items and services described in subparagraph (B) or (C), are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,

42 USC 1395x.

"(B) in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness, and

"(C) in the case of hospice care, which are not reasonable and necessary for the palliation or management of terminal illness;"

(2) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (6) after "comfort items";

(3) by striking out "paragraph (1)" in paragraph (7) and inserting in lieu thereof "paragraph (1)(B)"; and

(4) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (9) after "custodial care".

42 USC 1395y.

(g)(1) Section 1862(f) of the Social Security Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)".

42 USC 1395z.

(2) Section 1863 of the Social Security Act is amended by striking out "and (cc)(2)(I)" and inserting in lieu thereof "(cc)(2)(I), and (dd)(2)".

42 USC 1395aa.

(3) Section 1864(a) of such Act is amended—

(A) by inserting "or whether an agency is a hospice program" in the first sentence after "home health agency,"; and

(B) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or hospice program".

42 USC 1395bb.

(4) Section 1865(a) of such Act is amended by striking out "or (o)" in the last sentence and inserting in lieu thereof "(o), or (dd)".

42 USC 1395cc.

(5) Section 1866(b)(2)(A) of such Act is amended by striking out "or (a)(3)" and inserting in lieu thereof "(a)(3), or (a)(4)".

(6) Section 1866(b)(4)(A) of such Act is amended by inserting "or hospice care" after "home health services".

42 USC 1395c  
note.

(h)(1)(A) Subject to subparagraph (B), the amendments made by this section apply to hospice care provided on or after November 1, 1983, and before October 1, 1986.

(B) An individual who on October 1, 1986, has an election under section 1812(d)(1) of the Social Security Act in effect for a period, is entitled to hospice care benefits after that date during the remainder of that period and any consecutive period to which the individual would have been entitled before such date.

(2) In order to provide for the timely implementation of the amendments made by this Act, the Secretary of Health and Human Services shall, not later than September 1, 1983, promulgate such final regulations as may be necessary to set forth—

42 USC 1395f  
note.

(A) a description of the care included in "hospice care" and the standards for qualification of a "hospice program", under section 1861(dd) of the Social Security Act, and

*Ante*, p. 359.

(B) the standards for payment for hospice care under part A of title XVIII of such Act, pursuant to section 1814(i) of such Act.

42 USC 1395;  
*Ante*, p. 358.

(h)(1) Notwithstanding any provision of law which has the effect of restricting the time period of a hospice demonstration project in effect on July 15, 1982, pursuant to section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of the project until November 1, 1983, or, if later, the date on which payments can first be made to any hospice program under the amendments made by this section.

42 USC 1395b-1  
note.

81 Stat. 930.

(2) Prior to September 30, 1983, the Secretary shall submit to Congress a report on the effectiveness of demonstration projects referred to in paragraph (1), including an evaluation of the cost-effectiveness of hospice care, the reasonableness of the 40-percent cap amount for hospice care as provided in section 1814(i) of the Social Security Act (as added by this section), proposed methodology for determining such cap amount, proposed standards for requiring and measuring the maintenance of effort for utilizing volunteers as required under section 1861(dd) of such Act, an evaluation of physician reimbursement for services furnished as a part of hospice care and for services furnished to individuals receiving hospice care but which are not reimbursed as a part of the hospice care, and any proposed legislative changes in the hospice care provisions of title XVIII of such Act.

Report to  
Congress.

(i)(1) The Secretary of Health and Human Services shall conduct a study and, prior to January 1, 1986, report to the Congress on whether or not the reimbursement method and benefit structure (including copayments) for hospice care under title XVIII of the Social Security Act are fair and equitable and promote the most efficient provision of hospice care. Such report shall include the feasibility and advisability of providing for prospective reimbursement for hospice care, an evaluation of the inclusion of payment for outpatient drugs, an evaluation of the need to alter the method of reimbursement for nutritional, dietary, and bereavement counseling as hospice care, and any recommendations for legislative changes in the hospice care reimbursement or benefit structure.

42 USC 1395.  
Study; report to  
Congress.  
42 USC 1395f  
note.

(2) The Comptroller General shall monitor and evaluate the study and the preparation of the report under paragraph (1).

(j) The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act (relating to the cap amount), section 1861(dd)(1)(G) of such Act (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iv) of such Act (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate until October 1, 1986, in a viable manner as a hospice program under title XVIII of the Social Security Act.

Waivers.  
42 USC 1395f  
note.

COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO THREE-DAY PRIOR HOSPITALIZATION REQUIREMENT

42 USC 1395d.

SEC. 123. (a) Section 1812(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)" and by inserting before the semicolon at the end the following: ", and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services".

(b) Section 1812 of such Act is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) The Secretary shall provide for coverage, under clause (B) of subsection (a)(2), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described in subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection, as may be necessary to carry out paragraph (1)."

42 USC 1395f,  
1395x; *Ante*,  
p. 331.

PROVISION TEMPORARILY HOLDING PART B PREMIUM AT CONSTANT PERCENTAGE OF COST

42 USC 1395r.

SEC. 124. (a)(1) Section 1839(c)(2) of the Social Security Act is amended by striking out "except as provided in subsection (d)" and inserting in lieu thereof "except as provided in subsections (d) and (g)".

(2) Section 1839(c)(3) of such Act is amended by inserting "(except as otherwise provided in subsection (g))" after "The monthly premium shall".

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (c), the monthly premium for each individual enrolled under this part for each month after June 1983 and prior to July 1985 shall be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (c)(1) and applicable to such month.

"(2) Any increases in premium amounts taking effect prior to July 1985 by reason of paragraph (1) shall be taken into account for purposes of determining increases thereafter under subsection (c)(3)."

42 USC 1395w.

(c) Section 1844(a)(1) of such Act is amended by striking out "section 1839(c)(3)" each place it appears in subparagraphs (A)(i) and (B)(i) and inserting in lieu thereof in each instance "section 1839(c)(3) or 1839(g), as the case may be".

*Supra.*

## SPECIAL ENROLLMENT PROVISIONS FOR MERCHANT SEAMEN

## SEC. 125. (a) Any individual who—

42 USC 1395i-2  
note.

(1) was entitled to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect on September 30, 1981), including such entitlement on the basis of continuing medical care under 42 C.F.R. § 32.17, at any time during the period beginning on March 10, 1981, and ending on October 1, 1981, and

95 Stat. 603.  
42 USC 249.

(2) as of September 30, 1981, was eligible under section 1818(a) or section 1836 of the Social Security Act to enroll in the insurance program established by part A or part B, respectively, of title XVIII of that Act (hereinafter in this section referred to as the “respective program”),

42 USC 1395i-2,  
1395o.  
42 USC 1395c,  
1395j.

may enroll (if not otherwise enrolled) in the respective program during the period beginning on the first day of the first month beginning at least 20 days after the date of the enactment of this Act and ending on December 31, 1982.

(b)(1) The coverage period under the respective program of an individual who enrolls under subsection (a) shall begin—

(A) on the first day of the month following the month in which the individual enrolls, or

(B) on October 1, 1981, if the individual files a request for this subparagraph to apply and pays the monthly premiums for the months so covered.

(2) The coverage period under the respective program of an individual described in subsection (a) who enrolled in the respective program before the enrollment period described in that subsection shall be retroactively extended to October 1, 1981, if the individual files a request before January 1, 1983, for such retroactive extension and pays the monthly premiums for the months so covered.

(c)(1) For purposes of section 1839(d) of the Social Security Act with respect to the monthly premium for months after September 1981, if an individual described in subsection (a) has enrolled in the insurance program under part B of title XVIII of the Social Security Act at any time before the end of the enrollment period described in subsection (a), any month (before the end of that enrollment period) in which he was not enrolled in that program shall not be treated as a month in which he could have been enrolled in the program.

42 USC 1395r.

(2) Paragraph (1) shall not apply to an individual—

(A) if the individual has enrolled in the insurance program before March 10, 1981, unless the enrollment was terminated solely because the individual lost eligibility to be so enrolled, or

(B) unless the individual applies for the benefit of such paragraph before January 1, 1983.

(d)(1) The Secretary of Health and Human Services, beginning as soon as possible but not later than 30 days after the date of the enactment of this Act, shall provide for the dissemination of information—

(A) to unions and other associations representing or assisting seamen,

(B) to offices enrolling individuals under the respective programs, and

(C) to such other entities and in such a manner as will effectively inform individuals eligible for benefits under this section,

concerning the special benefits provided under this section.

95 Stat. 603.  
42 USC 249.

(2) An individual may establish that the individual was entitled at a date to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect before October 1, 1981) by providing—

(A) documentation relating to the status under which the individual was provided care in (or under arrangements with) a Public Health Service facility on that date,

(B) the individual's seamen's papers covering that date, or

(C) such other reasonable documentation as the Secretary may require.

### PART III—MISCELLANEOUS PROVISIONS

#### EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY

42 USC 1320a-2.

SEC. 126. Section 1123(a) of the Social Security Act is amended by striking out "December 31, 1981" and inserting in lieu thereof "September 30, 1983".

#### REGULATIONS REGARDING ACCESS TO BOOKS AND RECORDS

SEC. 127. Section 952 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2646) is amended—

(1) by inserting "(a)" after "SEC. 952.", and

(2) by adding at the end the following new subsection:

42 USC 1395x  
note.

"(b) Unless the Secretary of Health and Human Services first publishes final regulations prescribing the criteria and procedures described in the last sentence of section 1861(v)(1)(I) of the Social Security Act by January 1, 1983, after providing a period of not less than 60 days for public comment on proposed regulations, the amendment made by subsection (a) shall only apply to books, documents, and records relating to services furnished (pursuant to contract or subcontract) on or after the date on which final regulations of the Secretary are first published."

94 Stat. 2646.  
42 USC 1395x.

#### TECHNICAL CORRECTIONS TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

42 USC 1395x.

SEC. 128. (a)(1) Section 1861(cc)(1) of the Social Security Act is amended, in the matter following subparagraph (H), by striking out "outpatient" and inserting in lieu thereof "inpatient".

42 USC 1395y.

(2) The second sentence of section 1862(b)(1) of such Act is amended by striking out "or plan".

95 Stat. 800.

42 USC 1395y.

(3) Section 1862(b)(2)(A) of such Act is amended by striking out "section 162(h)(2)" and inserting in lieu thereof "section 162(i)(2)".

(4) The first sentence of section 1862(b)(2)(B) of such Act is amended by inserting "furnished" before "to an individual".

42 USC 1395cc.

(5) Section 1866(b) of such Act is amended by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" in the matter preceding paragraph (1).

95 Stat. 785.

42 USC 1395uu.

26 USC 162.

(6) The second subsection (c) of section 1884 of such Act is redesignated as subsection (d).

(b) Section 162 of the Internal Revenue Code of 1954 is amended—

(1) by redesignating the subsection (i) (relating to cross reference), as redesignated by the Economic Recovery Tax Act of 1981 (Public Law 95-34), as subsection (j), and

95 Stat. 202.

- (2) by redesignating the subsection (h) (relating to group health plans), as added by section 2146(b) of the Omnibus Budget Reconciliation Act of 1981, as subsection (i). 95 Stat. 800.
- (c)(1) Section 2143(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “costs” and inserting in lieu thereof “cost”. 95 Stat. 798.  
42 USC 1395x note.
- (2) Section 2203(f)(3) of such Act is amended by striking out “August 1982” and inserting in lieu thereof “August 1981”. 95 Stat. 835.
- (d)(1) Sections 1842(b)(3)(B)(ii)(II) and 1870(c) of the Social Security Act are each amended by striking out “1862” and inserting in lieu thereof “1862(a)”. 42 USC 1395u, 1395gg.
- (2) The final subparagraph (C) of section 1861(e) of such Act is amended by striking out “may (i),” and inserting in lieu thereof “(i) may”. 42 USC 1395x.
- (3) Section 1865(b) of such Act is amended by striking out “an institution” and “such institution” and inserting in lieu thereof “a hospital” and “the hospital”, respectively. 42 USC 1395bb.
- (4) Section 1866(a)(1)(B) of such Act is amended by inserting “of section 1862(a)” after “(1) or (9)”. 42 USC 1395cc.
- (e)(1) Any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates. Effective date.  
42 USC 1395x note.  
95 Stat. 357.
- (2) Except as otherwise provided in this section, any amendment to the Social Security Act or the Internal Revenue Code of 1954 made by this section (other than subsection (d)) shall be effective as if it had been originally included as a part of that provision of the Social Security Act or Internal Revenue Code of 1954 to which it relates, as such provision of such Act or Code was amended by the Omnibus Budget Reconciliation Act of 1981. 42 USC 1305; 26 USC 1.
- (3) The amendments made by subsection (d) shall take effect upon enactment. Effective date.

## Subtitle B—Medicaid

### COPAYMENTS BY MEDICAID RECIPIENTS

SEC. 131. (a) Section 1902(a)(14) of the Social Security Act is amended to read as follows: 42 USC 1396a.

“(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;”.

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section: 42 USC 1396.

#### “USE OF ENROLLMENT FEES, PREMIUMS, DEDUCTIONS, COST SHARING, AND SIMILAR CHARGES

“SEC. 1916. (a) The State plan shall provide that in the case of individuals described in section 1902(a)(10)(A) who are eligible under the plan— 42 USC 1396o.  
95 Stat. 807.

“(1) no enrollment fee, premium, or similar charge will be imposed under the plan;

“(2) no deduction, cost sharing or similar charge will be imposed under the plan with respect to—

“(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

“(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

“(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

42 USC 1396d.

42 USC 1396b.

“(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled; and

“(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of ‘nominal’ under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

95 Stat. 807.

42 USC 1396a.

“(b) The State plan shall provide that in the case of individuals other than those described in section 1902(a)(10)(A) who are eligible under the plan—

“(1) there may be imposed an enrollment fee, premium, or similar charge, which (as determined in accordance with standards prescribed by the Secretary) is related to the individual’s income,

“(2) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to—

“(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

“(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

“(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual



is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

“(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or (at the option of the State) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled; and

42 USC 1396d.

42 USC 1396b.

“(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of ‘nominal’ under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

“(c) The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual’s inability to pay a deduction, cost sharing, or similar charge. The requirements of this subparagraph shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

“(d) No deduction, cost sharing, or similar charge may be imposed under any waiver authority of the Secretary unless authorized under this section, unless such waiver is for a demonstration project which the Secretary finds after public notice and opportunity for comment—

“(1) will test a unique and previously untested use of copayments,

“(2) is limited to a period of not more than two years,

“(3) will provide benefits to recipients of medical assistance which can reasonably be expected to be equivalent to the risks to the recipients,

“(4) is based on a reasonable hypothesis which the demonstration is designed to test in a methodologically sound manner, including the use of control groups of similar recipients of medical assistance in the area, and

“(5) in which participation is voluntary, or in which provision is made for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.”.

(b) Section 1902(a)(10) of such Act is amended in the matter following subparagraph (D)—

42 USC 1396a.

(1) by striking out “and” before “(III)”; and

*Ante*, p. 367.

Effective date.  
42 USC 1396o  
note.

42 USC 1396.

(2) by inserting before the semicolon at the end thereof the following: "and (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1982.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

#### MODIFICATIONS IN LIEN PROVISIONS

42 USC 1396a.

SEC. 132. (a) Section 1902(a)(18) of the Social Security Act is amended to read as follows:

*Infra.*

"(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, and transfers of assets;"

(b) Title XIX of such Act is amended by adding after section 1916 (added by section 131 of this Act) the following new section:

#### "LIENS, ADJUSTMENTS AND RECOVERIES, AND TRANSFERS OF ASSETS

42 USC 1396p.

"SEC. 1917. (a)(1) No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the State plan, except—

"(A) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

"(B) in the case of the real property of an individual—

"(i) who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and

"(ii) with respect to whom the State determines, after notice and opportunity for a hearing (in accordance with procedures established by the State), that he cannot reasonably be expected to be discharged from the medical institution and to return home,

except as provided in paragraph (2).

"(2) No lien may be imposed under paragraph (1)(B) on such individual's home if—

"(A) the spouse of such individual,

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to

42 USC 1381.

participate in such program) is blind or disabled as defined in section 1614, or

42 USC 1382c.

“(C) a sibling of such individual (who has an equity interest in such home and who was residing in such individual’s home for a period of at least one year immediately before the date of the individual’s admission to the medical institution),  
is lawfully residing in such home.

“(3) Any lien imposed with respect to an individual pursuant to paragraph (1)(B) shall dissolve upon that individual’s discharge from the medical institution and return home.

“(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except—

“(A) in the case of an individual described in subsection (a)(1)(B), from his estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of such individual, and

“(B) in the case of any other individual who was 65 years of age or older when he received such assistance, from his estate.

“(2) Any adjustment or recovery under paragraph (1) may be made only after the death of the individual’s surviving spouse, if any, and only at a time—

“(A) when he has no surviving child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614; and

42 USC 1381.

“(B) in the case of a lien on an individual’s home under subsection (a)(1)(B), when—

“(i) no sibling of the individual (who was residing in the individual’s home for a period of at least one year immediately before the date of the individual’s admission to the medical institution), and

“(ii) no son or daughter of the individual (who was residing in the individual’s home for a period of at least two years immediately before the date of the individual’s admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution),

is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual’s admission to the medical institution.

“(c)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act, and which may provide for a waiver of denial of such assistance in any instance where the State determines that such denial would work an undue hardship.

42 USC 1382b.

"(2)(A) In any case where the uncompensated value of disposed of resources exceeds \$12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(B)(i) In the case of any individual who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and, who, at any time during or after the 24-month period immediately prior to application for medical assistance under the State plan, disposed of a home for less than fair market value, the State plan (subject to clause (iii)) may provide for a period of ineligibility for medical assistance in accordance with clause (ii).

"(ii) If the State plan provides for a period of ineligibility under clause (i), such plan—

"(I) shall provide that such individual shall be ineligible for all medical assistance for a period of 24 months after the date on which he disposed of such home, except that, in the case where the uncompensated value of the home is less than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, the period of ineligibility shall be such shorter time as bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home, and

"(II) may provide (at the option of the State) that, in the case where the uncompensated value of the home is more than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, such individual shall be ineligible for all medical assistance for a period in excess of 24 months after the date on which he disposed of such home which bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home.

"(iii) An individual shall not be ineligible for medical assistance by reason of clause (ii) if—

"(I) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual cannot reasonably be expected to be discharged from the medical institution and to return to that home,

"(II) title to such home was transferred to the individual's spouse or child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

"(III) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the home either at fair market value, or for other valuable consideration, or

"(IV) if the State determines that denial of eligibility would work an undue hardship.

42 USC 1381.

42 USC 1382c.

“(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).” 42 USC 1382b.

(c) Section 1902 of such Act is amended by striking out subsection (j) thereof. 42 USC 1396a.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, but the provisions of section 1917(c)(2)(B) of the Social Security Act shall not apply with respect to a transfer of assets which took place prior to such date of enactment. Effective date. 42 USC 1396p note. *Ante*, p. 370.

#### LIMITATION OF FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS MEDICAL ASSISTANCE EXPENDITURES

SEC. 133. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1396b.

“(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State’s erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

“(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State. Waiver.

“(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

“(D)(i) For purposes of this subsection, the term ‘erroneous excess payments for medical assistance’ means the total of—

“Erroneous excess payments for medical assistance.”

“(I) payments under the State plan with respect to ineligible individuals and families, and

“(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

“(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the

difference between the actual amount of such resources and the allowable resource level established under the State plan.

“(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

“(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

“(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

“(ii) payments made as the result of a technical error.

“(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

“(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

“(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

“(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.”

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under title XIX of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 1903 of such Act, shall be effective with respect to payments to States under such section 1903 for quarters beginning on or after October 1, 1982, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 1903 of the Social Security Act.

Effective date.  
42 USC 1396b  
note.  
42 USC 1396b  
note.  
42 USC 1396.

42 USC 1396b.

## MEDICAID COVERAGE OF HOME CARE FOR CERTAIN DISABLED CHILDREN

SEC. 134. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 1396a.

“(3) At the option of the State, any individual who—

“(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a); 42 USC 1382c.

“(B) with respect to whom there has been a determination by the State that—

“(i) the individual requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility,

“(ii) it is appropriate to provide such care for the individual outside such an institution, and

“(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institution is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

“(C) if the individual were in a medical institution, would be eligible to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI, shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.” 42 USC 1381.

(b) The amendment made by subsection (a) shall become effective on October 1, 1982. Effective date. 42 USC 1396a note.

## SIX-MONTH MORATORIUM ON DEREGULATION OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 135. The Secretary of Health and Human Services may not promulgate any change in the regulations prescribed under—

(1) subpart K of part 405 of subchapter B (relating to medicare conditions of participation of skilled nursing facilities),

(2) so much of subpart S of part 405 of subchapter B (relating to certification procedure for providers) as relates to certification of skilled nursing facilities, and

(3) subparts C, D, and E of part 442 of subchapter C (relating to medicare certification and requirements for skilled nursing and intermediate care facilities),  
of chapter IV of title 42 of the Code of Federal Regulations until the first day of the seventh calendar month beginning after the date of the enactment of this Act unless ordered to do so by a court of competent jurisdiction.

## MEDICAID PROGRAM IN AMERICAN SAMOA

SEC. 136. (a) Section 1101(a)(1) of the Social Security Act is amended by inserting “and American Samoa” after “Such term when used in title XIX also includes the Northern Mariana Islands”. 42 USC 1301.

(b) Section 1108(c) of such Act is amended—

(1) by striking out “and” at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof “, and”; and 42 USC 1308.

(3) by adding at the end thereof the following:

“(5) American Samoa shall not exceed \$750,000.”.

42 USC 1396d.

(c) Section 1905(b)(2) of such Act is amended by striking out “and the Northern Mariana Islands” and inserting in lieu thereof “the Northern Mariana Islands, and American Samoa”.

42 USC 1396a.

(d) Section 1902 of such Act (as amended by section 132(c) of this Act) is amended by adding at the end thereof the following new subsection:

“(j) Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program in American Samoa, other than a waiver of the Federal medical assistance percentage, the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa for care and services described in paragraphs (1) through (18) of section 1905(a).”.

42 USC 1308.

42 USC 1396d.

Effective date.

42 USC 1301  
note.

(e) The amendments made by this section shall become effective on October 1, 1982.

#### TECHNICAL CORRECTIONS FROM OMNIBUS BUDGET RECONCILIATION ACT OF 1981

95 Stat. 803.

42 USC 1396b.

SEC. 137. (a)(1) Section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “Section 1902” and inserting in lieu thereof “Section 1903”.

(2) Paragraphs (1) and (2) of section 2161(c) of such Act are each amended by striking out “section 1902” and inserting in lieu thereof in each instance “section 1903”.

95 Stat. 807.

42 USC 1396a.

(3) Section 2171(a)(3) of such Act is amended by striking out “by striking out paragraph (C)” and inserting in lieu thereof “by striking out ‘(C) if medical assistance’ and all that follows through the semicolon preceding ‘except that’”.

95 Stat. 815.

42 USC 603 note.

42 USC 1396.

(4) Section 2181(b) of such Act is amended by inserting before the period at the end thereof the following: “, except that, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order to incorporate the provisions required to be included by this section into such State plan, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to include the provisions required to be included in such State plan by subsection (a)(2) of this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, but the requirements previously set forth in paragraphs (1) through (3) of section 403(g) of the Social Security Act (prior to its repeal by this section) shall apply under title XIX of such Act to such State on and after October 1, 1981, whether or not the provisions required to be included by this section in the State plan under title XIX have been incorporated into such State plan”.

42 USC 603.

(5) Section 2193(c)(3)(B) of such Act is amended by striking out “or X” and inserting in lieu thereof “or XIX”.

95 Stat. 826.

42 USC 1320a-1.

95 Stat. 819.

42 USC 701.

(b)(1) Section 501(b)(1)(D) of the Social Security Act is amended by striking out “title IV” and inserting in lieu thereof “title VI”.

(2) Section 501(b)(2) of such Act is amended by striking out “section 624 of the Economic Opportunity Act of 1964” and inserting in lieu thereof “section 673(2) of the Omnibus Budget Reconciliation Act of 1981”.



- (3) Section 505(2)(B) of such Act is amended by striking out "502(b)(1)" and inserting in lieu thereof "501(b)(1)". 95 Stat. 822.  
42 USC 705.
- (4) Section 505(2)(D) of such Act is amended by striking out "the State imposes any charges" and inserting in lieu thereof "any charges are imposed".
- (5) Section 1134(4) of such Act is amended by striking out "scale" and inserting in lieu thereof "sale". 42 USC 1320b-4.
- (6) The heading of title XVI of such Act as such title applies in the case of Puerto Rico, Guam, and the Virgin Islands is amended by striking out ", OR FOR SUCH AID FOR THE AGED". 42 USC 1381.
- (7) Section 1902(a)(10)(A) of such Act is amended to read as follows: 95 Stat. 807.  
42 USC 1396a.
- "(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to—
- "(i) all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI; and
- "(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but— 42 USC 606.
- "(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),
- "(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,
- "(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,
- "(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;
- "(V) who are in a medical institution, who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C), or
- "(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination 42 USC 1396b.

95 Stat. 809.  
42 USC 1396n.

that but for the provision of home or community-based services described in section 1915(c) they would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under section 1915(c)."

95 Stat. 807.  
42 USC 1396a.

(8) Section 1902(a)(10)(C)(i) of such Act is amended—

(A) by striking out "and (II)" and inserting in lieu thereof ", (II)"; and

(B) by inserting before the semicolon at the end thereof ", and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be the same methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be the same methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups".

95 Stat. 807.  
42 USC 1396a.

(9) Section 1902(a)(10)(C)(ii)(I) of such Act is amended by striking out "described in section 1905(a)(i)" and inserting in lieu thereof "under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i)".

42 USC 1396a.

(10) Section 1902(b) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

42 USC 1396b.

(11) Section 1903(g)(1) of such Act is amended by inserting "or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" after "as defined in section 1876".

95 Stat. 816.  
42 USC 1396b.

(12) Section 1903(g)(1)(A) of such Act is amended by striking out "intermediate care facility services described in section 1905(d)" and inserting in lieu thereof "intermediate care facility services provided in an institution for the mentally retarded".

(13) Section 1903(k) of such Act is amended by striking out "section 1876" and inserting in lieu thereof "subsection (m) of this section".

95 Stat. 813.  
42 USC 1396b.

(14) Section 1903(m)(2)(A) of such Act is amended—

(A) by striking out "and" before "(II)" in clause (iv) and inserting in lieu thereof "or"; and

(B) by striking out "unforeseen" in clause (vii) and inserting in lieu thereof "unforeseen".

95 Stat. 803.  
42 USC 1396b.

(15) Section 1903(s) of such Act is amended—

(A) in paragraph (1)(A), by striking out "made before fiscal year 1981" and inserting in lieu thereof "made before fiscal year 1982";

(B) in paragraph (1)(A), by striking out "without regard to payments under subsection (t) and" and inserting in lieu thereof "without regard to payments under subsections (a)(6) and (t), without regard to payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service, and";

(C) in paragraph (1)(C), by inserting “a program in operation under” before “a plan approved under this title”;

(D) in paragraph (3)(D)—

(i) by striking out “determines that” and inserting in lieu thereof “must determine that”;

(ii) by striking out “most recent calendar year” and inserting in lieu thereof “most recent year (which shall consist of a 12-month period determined by the Secretary for this purpose)”;

(iii) by striking out “2 or 3 calendar year period” and inserting in lieu thereof “2- or 3-year period”; and

(iv) by striking out “calendar” each place it appears;

(E) in paragraph (4)(B), by inserting “and paragraph (3)(D)” after “subparagraph (A)”; and

(F) in paragraph (5)(A)(i), by inserting “(including amounts saved, to the extent such amounts can be documented to the satisfaction of the Secretary, by reason of the suspension or termination of a provider or other person for fraud or abuse, but only during the period of such suspension or termination or, if shorter, the 1-year period beginning on the date of such termination or suspension)” after “recovered or diverted”.

(16) Section 1903(t) of such Act (as added by section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 as amended by subsection (a) of this section) is amended—

95 Stat. 803.  
42 USC 1396b.

(A) in paragraphs (1)(A) and (2)(A), by striking out “other than interest paid under subsection (d)(5)” each place it appears and inserting in lieu thereof in each instance “other than payments under subsection (a)(6), interest paid under subsection (d)(5), and payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service”;

(B) in paragraph (1)(B), by striking out “between September 1982 and September 1983” and inserting in lieu thereof “for the 12-month period ending on September 30, 1983”;

(C) in paragraph (1)(C), by striking out “between September 1982 and September 1984” and inserting in lieu thereof “for the 24-month period ending on September 30, 1984”;

(D) in subparagraphs (B) and (C) of paragraph (1), by striking out “consumer price index for all urban consumers (published by the Bureau of Labor Statistics)” each place it appears and inserting in lieu thereof in each instance “Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics”; and

(E) by amending paragraph (3) to read as follows:

“(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1981, disregarding any change in such percentage after fiscal year 1981.”

(17) Section 1905(a)(i) of such Act is amended by striking out “or any reasonable category of such individuals,”.

95 Stat. 808.  
42 USC 1396d.

(18) Section 1905(a) of such Act is amended by striking out “or” at the end of clause (vi), inserting “or” at the end of clause (vii), and inserting after clause (vii) the following:

“(viii) pregnant women.”.

95 Stat. 809.  
42 USC 1396n.

(19)(A) Section 1915(b) of such Act is amended by striking out “and section 1903(m)”.

42 USC 1396n  
note.

(B) The amendment made by subparagraph (A) shall not apply with respect to any waiver if such waiver was granted, and the arrangement covered by the waiver was in place, prior to August 10, 1982.

(20) Section 1915(b)(1) of such Act is amended—

(A) by inserting “primary care” before “case-management system”; and

(B) by striking out “primary care services” and inserting in lieu thereof “medical care services”.

(21) Section 1915(c)(1) of such Act is amended by inserting “payment for part or all of the cost of” after “may include as ‘medical assistance’ under such plan”.

(22) Section 1915(c)(2)(B) of such Act is amended to read as follows:

“(B) the State will provide, with respect to individuals who—

“(i) are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan,

“(ii) may require such services, and

“(iii) may be eligible for such home or community-based care under such waiver,

for an evaluation of the need for such services;”.

(23) Section 1915(c)(3) of such Act is amended—

(A) by striking out “subsection (a)(1)” and inserting in lieu thereof “section 1902(a)(1)”; and

(B) by striking out “subsection (a)(10) of section 1902” and inserting in lieu thereof “section 1902(a)(10)”.

(24) Section 1915(c)(4) of such Act is amended by striking out “this section” and inserting in lieu thereof “this subsection”.

(25) Section 1915(f) of such Act is amended by inserting “approval of” before “a proposed State plan”.

95 Stat. 789.  
42 USC 1320a-7a.

(26) Subsection (a) of section 1128A of such Act is amended by striking out all that precedes “shall be subject” and inserting in lieu thereof the following:

“(a) Any person (including an organization, agency, or other entity) that—

“(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is for a medical or other item or service—

“(A) that the person knows or has reason to know was not provided as claimed, or

“(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), or 1862(d), or pursuant to a determination by the Secretary under section 1866(b)(2) with respect to which the Secretary has initiated termination proceedings; or

“(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged,”.

42 USC 1320a-7,  
1320c-9, 1395y.  
42 USC 1395cc.

42 USC 1395u.

(27) Section 1903(s)(5)(B) of such Act is amended by inserting “or quarters” after “carried forward to the following quarter”.

95 Stat. 803.  
42 USC 1396b.

(c)(1) Section 914(b)(2)(A) of the Omnibus Reconciliation Act of 1980 is amended by striking out “medical assistance” and all that follows and inserting in lieu thereof “cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title XIX of the Social Security Act.”.

42 USC 1396a  
note.

(2) Section 914(c)(2) of the Omnibus Reconciliation Act of 1980 is amended by striking out “services provided” and all that follows and inserting in lieu thereof “cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title V of the Social Security Act.”.

42 USC 1396.  
42 USC 705 note.

(d)(1) Except as otherwise provided in this section, any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

42 USC 701.  
42 USC 1396a  
note.  
95 Stat. 357.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act made by the preceding provisions of this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981.

42 USC 1305.

(e) Section 1902(a) of the Social Security Act is amended in the matter following paragraph (44) by inserting “, (26)” after “(9)(A)”.

95 Stat. 815.  
42 USC 1396a.

(f) Section 1905(h)(1)(C) of the Social Security Act is amended by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively, and by redesignating clauses (A) and (B) as clauses (i) and (ii) respectively.

42 USC 1396d.

(g) Effective October 1, 1982, section 1903(f)(3) of the Social Security Act is amended by striking out “(without regard to section 408)”.

42 USC 1396b.

## Subtitle C—Utilization and Quality Control Peer Review

Peer Review  
Improvement  
Act of 1982.

### SHORT TITLE OF SUBTITLE

SEC. 141. This subtitle may be cited as the “Peer Review Improvement Act of 1982”.

42 USC 1305  
note.

### REQUIREMENT FOR SECRETARY TO ENTER INTO CONTRACTS

SEC. 142. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 1395y.

“(g) The Secretary shall, in making the determinations under paragraphs (1) and (9) of subsection (a), and for the purposes of promoting the effective, efficient, and economical delivery of health care services, and of promoting the quality of services of the type for which payment may be made under this title, enter into contracts with utilization and quality control peer review organizations pursuant to part B of title XI of this Act.”.

42 USC 1320c.

## ESTABLISHMENT OF UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

SEC. 143. Part B of title XI of the Social Security Act is amended to read as follows:

**“PART B—PEER REVIEW OF THE UTILIZATION AND QUALITY OF HEALTH CARE SERVICES****“PURPOSE**

42 USC 1320c.      “SEC. 1151. The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1862(g) of this Act, including the definition of the utilization and quality control peer review organizations with which the Secretary shall contract, the functions such peer review organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

42 USC 1395y.

**“DEFINITION OF UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION**

42 USC 1320c-1      “SEC. 1152. The term ‘utilization and quality control peer review organization’ means an entity which—

““(1)(A) is composed of a substantial number of the licensed doctors of medicine and osteopathy engaged in the practice of medicine or surgery in the area and who are representative of the practicing physicians in the area, designated by the Secretary under section 1153, with respect to which the entity shall perform services under this part, or (B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured; and

““(2) is able, in the judgment of the Secretary, to perform review functions required under section 1154 in a manner consistent with the efficient and effective administration of this part and to perform reviews of the pattern of quality of care in an area of medical practice where actual performance is measured against objective criteria which define acceptable and adequate practice.

**“CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS**

42 USC 1320c-2.      “SEC. 1153. (a)(1) The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this part will be made. In establishing such areas, the Secretary shall use the same areas as established under section 1152 of this Act as in effect immediately prior to the date of the enactment of the Peer Review Improvement Act of 1982, but subject to the provisions of paragraph (2).

““(2) As soon as practicable after the date of the enactment of the Peer Review Improvement Act of 1982, the Secretary shall consoli-

date such geographic areas, taking into account the following criteria:

“(A) Each State shall generally be designated as a geographic area for purposes of paragraph (1).

“(B) The Secretary shall establish local or regional areas rather than State areas only where the volume of review activity or other relevant factors (as determined by the Secretary) warrant such an establishment, and the Secretary determines that review activity can be carried out with equal or greater efficiency by establishing such local or regional areas. In applying this subparagraph the Secretary shall take into account the number of hospital admissions within each State for which payment may be made under title XVIII or a State plan approved under title XIX, with any State having fewer than 180,000 such admissions annually being established as a single statewide area, and no local or regional area being established which has fewer than 60,000 total hospital admissions (including public and private pay patients) under review annually, unless the Secretary determines that other relevant factors warrant otherwise.

42 USC 1395.

42 USC 1396.

“(C) No local or regional area shall be designated which is not a self-contained medical service area, having a full spectrum of services, including medical specialists’ services.

“(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part. If more than one such qualified organization meets the requirements of the preceding sentence, priority shall be given to any such organization which is described in section 1152(1)(A).

“(2)(A) During the first twelve months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part.

“(B) If, after the expiration of the twelve-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

“(3) The Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), a health care facility, or association of such facilities, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

“(c) Each contract with an organization under this section shall provide that—

"(1) the organization shall perform the functions set forth in section 1154(a), or may subcontract for the performance of all or some of such functions (and for purposes of paragraphs (2) and (3) of subsection (b), a subcontract under this paragraph shall not constitute an affiliation with the subcontractor);

"(2) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

"(3) the contract shall be for an initial term of two years and shall be renewable on a biennial basis thereafter;

"(4) if the Secretary intends not to renew a contract, he shall notify the organization of his decision at least 90 days prior to the expiration of the contract term, and shall provide the organization an opportunity to present data, interpretations of data, and other information pertinent to its performance under the contract, which shall be reviewed in a timely manner by the Secretary;

"(5) the organization may terminate the contract upon 90 days notice to the Secretary;

"(6) the Secretary may terminate the contract prior to the expiration of the contract term upon 90 days notice to the organization if the Secretary determines that—

"(A) the organization does not substantially meet the requirements of section 1152; or

"(B) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under subsection (d);

"(7) the Secretary shall include in the contract negotiated objectives against which the organization's performance will be judged, and negotiated specifications for use of regional norms, or modifications thereof based on national norms, for performing review functions under the contract; and

"(8) reimbursement shall be made to the organization in accordance with the terms of the contract.

"(d)(1) Prior to making any termination under subsection (c)(5)(B), the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

"(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(5)(C) upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

"(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While



serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at the time that service on the panel is rendered for grade GS-18 under section 5332 of title 5, United States Code. Appointments shall be made without regard to title 5, United States Code.

“(e) Contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

“(f) Any determination by the Secretary to terminate or not to renew a contract under this section shall not be subject to judicial review.

#### “FUNCTIONS OF PEER REVIEW ORGANIZATIONS

“SEC. 1154. (a) Any utilization and quality control peer review organization entering into a contract with the Secretary under this part must perform the following functions: 42 USC 1320c-3.

“(1) The organization shall review some or all of the professional activities in the area, subject to the terms of the contract, of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under title XVIII for the purpose of determining whether— 42 USC 1395.

“(A) such services and items are or were reasonable and medically necessary or otherwise allowable under section 1862(a)(1);

“(B) the quality of such services meets professionally recognized standards of health care; and

“(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided more economically on an outpatient basis or in an inpatient health care facility of a different type.

“(2) The organization shall determine, on the basis of the review carried out under subparagraphs (A) and (C) of paragraph (1), whether payment shall be made for services under title XVIII. Such determination shall constitute the conclusive determination on those issues for purposes of payment under title XVIII, except that payment may be made if—

“(A) such payment is allowed by reason of section 1879;

“(B) in the case of inpatient hospital services or posthospital extended care services, the peer review organization determines that additional time is required in order to arrange for postdischarge care, but payment may be continued under this subparagraph for not more than two days, but only in the case where the provider of such services did not know (as determined under section 1879) that payment would not otherwise be made for such services under title XVIII prior to notification by the organization under paragraph (3); 42 USC 1395pp.

“(C) such determination is changed as the result of any hearing or review of the determination under section 1155; or

42 USC 1395x.

“(D) such payment is authorized under section 1861(v)(1)(G).

“(3) Whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such practitioner or provider, such patient, and the agency or organization responsible for the payment of claims under title XVIII of this Act. In the case of practitioners and providers of services, the organization shall provide an opportunity for discussion and review of the determination.

“(4) The organization shall, after consultation with the Secretary, determine the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order to most effectively carry out the purposes of this part, exercise review authority under the contract. The organization shall notify the Secretary periodically with respect to such determinations.

“(5) The organization shall consult with nurses and other professional health care practitioners (other than physicians described in section 1861(r)(1)) and with representatives of institutional and noninstitutional providers of health care services, with respect to the organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.

“(6) The organization shall, consistent with the provisions of its contract under this part, apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include—

“(A) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and

“(B) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

“(7) The organization, to the extent necessary and appropriate to the performance of the contract, shall—

“(A) make arrangements to utilize the services of persons who are practitioners of, or specialists in, the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

“(B) undertake such professional inquiries either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review which in the judgment of such organization will facilitate its activities;

“(C) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1); and

“(D) inspect the facilities in which care is rendered or services are provided (which are located in such area) of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1).

“(8) The organization shall perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part.

“(9) The organization shall collect such information relevant to its functions, and keep and maintain such records, in such form as the Secretary may require to carry out the purposes of this part, and shall permit access to and use of any such information and records as the Secretary may require for such purposes, subject to the provisions of section 1160.

*Post*, p. 391.

“(10) The organization shall coordinate activities, including information exchanges, which are consistent with economical and efficient operation of programs among appropriate public and private agencies or organizations including—

“(A) agencies under contract pursuant to sections 1816 and 1842 of this Act;

42 USC 1395h,  
1395u.

“(B) other peer review organizations having contracts under this part; and

“(C) other public or private review organizations as may be appropriate.

“(11) The organization shall make available its facilities and resources for contracting with private and public entities paying for health care in its area for review, as feasible and appropriate, of services reimbursed by such entities.

“(b)(1) No physician shall be permitted to review—

“(A) health care services provided to a patient if he was directly responsible for providing such services; or

“(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

“(2) For purposes of this subsection, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

“(c) No utilization and quality control peer review organization shall utilize the services of any individual who is not a duly licensed doctor of medicine, osteopathy, or dentistry to make final determinations of denial decisions in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine, osteopathy, or dentistry, or

any act performed by any duly licensed doctor of medicine, osteopathy, or dentistry in the exercise of his profession.

“RIGHT TO HEARING AND JUDICIAL REVIEW

42 USC 1320c-4.  
42 USC 1395.

“SEC. 1155. Any beneficiary who is entitled to benefits under title XVIII, and any practitioner or provider, who is dissatisfied with a determination made by a contracting peer review organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is \$200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as is provided in section 205(b)), and, where the amount in controversy is \$2,000 or more, to judicial review of the Secretary's final decision.

42 USC 405.

“OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

42 USC 1320c-5.

“SEC. 1156. (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under title XVIII, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under such title—

“(1) will be provided economically and only when, and to the extent, medically necessary;

“(2) will be of a quality which meets professionally recognized standards of health care; and

“(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

“(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, any organization having a contract with the Secretary under this part determines that such practitioner or person has—

“(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

“(B) grossly and flagrantly violated any such obligation in one or more instances,

such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under title XVIII, has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide such services on a reimbursable basis. If the Secretary fails to act upon the recommendations submitted to him by such organization within 120

days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

"(2) A determination made by the Secretary under this subsection to exclude a practitioner or person shall be effective at such time and upon such reasonable notice to the public and to the practitioner or person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

"(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

42 USC 405.

"(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

#### "LIMITATION ON LIABILITY

"SEC. 1157. (a) Notwithstanding any other provision of law, no person providing information to any organization having a contract with the Secretary under this part shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless—

42 USC 1320c-6.

"(1) such information is unrelated to the performance of the contract of such organization; or

“(2) such information is false and the person providing it knew, or had reason to believe, that such information was false.

“(b) No person who is employed by, or who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance by him of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

“(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by an organization under contract pursuant to section 1153 operating in the area where such doctor of medicine or osteopathy or provider took such action; but only if—

“(1) he takes such action in the exercise of his profession as a doctor of medicine or osteopathy or in the exercise of his functions as a provider of health care services; and

“(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

“(d) The Secretary shall make payment to an organization under contract with him pursuant to this part, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function under such contract by such organization, member, or employee.

“APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING  
FEDERAL FINANCIAL ASSISTANCE

42 USC 1320c-7.  
42 USC 1396.

“SEC. 1158. (a) A State plan approved under title XIX of this Act may provide that the functions specified in section 1154 may be performed in an area by contract with a utilization and quality control peer review organization that has entered into a contract with the Secretary in accordance with the provisions of section 1862(g).

42 USC 1395y.

“(b) In the event a State enters into a contract in accordance with subsection (a), the Federal share of the expenditures made to the contracting organization for its costs in the performance of its functions under the State plan shall be 75 percent (as provided in section 1903(a)(3)(C)).

42 USC 1396b.

“AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE  
PROVISIONS OF THIS PART

42 USC 1320c-8.  
42 USC 1395y.

“SEC. 1159. Expenses incurred in the administration of the contracts described in section 1862(g) shall be payable from—

“(1) funds in the Federal Hospital Insurance Trust Fund; and

“(2) funds in the Federal Supplementary Medical Insurance Trust Fund,  
in such amounts from each of such Trust Funds as the Secretary shall deem to be fair and equitable after taking into consideration the expenses attributable to the administration of this part with respect to each of such programs. The Secretary shall make such transfers of moneys between such Trust Funds as may be appropriate to settle accounts between them in cases where expenses properly payable from one such Trust Fund have been paid from the other such Trust Fund.

“PROHIBITION AGAINST DISCLOSURE OF INFORMATION

“SEC. 1160. (a) An organization, in carrying out its functions under a contract entered into under this part, shall not be a Federal agency for purposes of the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act). Any data or information acquired by any such organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to any person except— 42 USC 1320c-9.

“(1) to the extent that may be necessary to carry out the purposes of this part,

“(2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or

“(3) in accordance with subsection (b).

“(b) An organization having a contract with the Secretary under this part shall provide in accordance with procedures and safeguards established by the Secretary, data and information—

“(1) which may identify specific providers or practitioners as may be necessary—

“(A) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case or pattern;

“(B) to assist appropriate Federal and State agencies recognized by the Secretary as having responsibility for identifying cases or patterns involving risks to the public health, which data and information shall be provided by the peer review organization to any such agency—

“(i) at the discretion of the peer review organization, at the request of such agency relating to a specific case or pattern with respect to which such agency has made a finding, or has a reasonable belief, that there may be a substantial risk to the public health, or

“(ii) upon a finding by, or the reasonable belief of, the peer review organization that there may be a substantial risk to the public health; and

“(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case, but only to the extent that such data and

information is required by the agency in carrying out a function which is within the jurisdiction of such agency under State law; and

“(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such organization, and shall be in the form of aggregate statistical data (without explicitly identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such information) of any such information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the information. An organization may require payment of a reasonable fee for providing information under this subsection in response to a request for such information.

“(c) It shall be unlawful for any person to disclose any such information described in subsection (a) other than for the purposes provided in subsections (a) and (b), and any person violating the provisions of this section shall, upon conviction, be fined not more than \$1,000, and imprisoned for not more than 6 months, or both, and shall be required to pay the costs of prosecution.

“(d) No patient record in the possession of an organization having a contract with the Secretary under this part shall be subject to subpoena or discovery proceedings in a civil action.

#### “ANNUAL REPORTS

42 USC 1320c-10.

“SEC. 1161. The Secretary shall submit to the Congress not later than April 1 of each year, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

“(1) the number, status, and service areas of all utilization and quality control peer review organizations participating in the program;

“(2) the number of health care institutions and practitioners whose services are subject to review by such organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

“(3) the various methods of reimbursement utilized in contracts under this part, and the relative efficiency of each such method of reimbursement;

“(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;



“(5) the total costs incurred under titles XVIII and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality; and  
“(6) descriptions of the criteria upon which decisions are made, and the selection and relative weights of such criteria.

42 USC 1395,  
1396.

#### “EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

“SEC. 1162. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

42 USC 1320c-11.

#### “MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

“SEC. 1163. For purposes of applying this part to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.”.

42 USC 1320c-12.

#### FACILITATION OF PRIVATE REVIEW

SEC. 144. Section 1866(a)(1) of the Social Security Act is amended—  
(1) by striking out “and” at the end of subparagraphs (A), (B), and (C);

42 USC 1395cc.

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, and”; and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes.”.

42 USC 1320c.

#### WAIVER OF LIABILITY PROVISION

SEC. 145. Section 1879(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: “Any provider or other person furnishing items or services for which payment may not be made by reason of section 1862(a)(1) or (9) shall be deemed to have knowledge that payment cannot be made for such items or services if the claim relating to such items or services involves a case, provider or other person furnishing services, procedure, or test, with respect to which such provider or other person has been notified by the Secretary (including notification by a utilization and quality control peer review organization) that a pattern of inappropriate utilization has occurred in the past, and such provider or other person has been allowed a reasonable time to correct such inappropriate utilization.”.

42 USC 1395pp.

42 USC 1395y.

## MEDICAID PROVISIONS

95 Stat. 795.  
42 USC 1396a.

SEC. 146. (a) Section 1902(d) of the Social Security Act is amended—

(1) by striking out “a Professional Standards Review Organization designated, conditionally or otherwise,” and inserting in lieu thereof “a utilization and quality control peer review organization having a contract with the Secretary”; and

(2) by striking out “such Organization (or Organizations)” each place it appears and inserting in lieu thereof in each instance “such organization (or organizations)”.

95 Stat. 795.  
42 USC 1396b.

(b) Section 1903(a)(3)(C) of such Act is amended by striking out “Professional Standards Review Organization” and inserting in lieu thereof “utilization and quality control peer review organization”.

DEMONSTRATION PROJECTS FOR COMPETITIVE BIDDING AND OTHER  
REIMBURSEMENT METHODS

42 USC 1395b-1.

SEC. 147. Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended—

(1) by striking out “and” at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof “; and”; and

(3) by inserting after subparagraph (J) the following new subparagraph:

“(K) to determine whether the use of competitive bidding in the awarding of contracts, or the use of other methods of reimbursement, under part B of title XI would be efficient and effective methods of furthering the purposes of that part.”.

## TECHNICAL AMENDMENTS

42 USC 1395y.

SEC. 148. (a) Section 1862(d)(1)(C) of such Act is amended by striking out “, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title),” and inserting in lieu thereof “on the basis of information acquired by the Secretary in the administration of this title”.

42 USC 1395g,  
1395x.

(b) Sections 1815(b), 1861(v)(1)(G), and 1861(w)(2) of such Act are each amended by striking out “Professional Standards Review Organization” and inserting in lieu thereof in each instance “quality control and peer review organization”.

42 USC 1395k.

(c) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out “Professional Standards Review Organization (designated, conditionally or otherwise,” and inserting in lieu thereof “quality control and peer review organization (having a contract with the Secretary”.

42 USC 1395l.

(d) Section 1833(i) of such Act is amended by striking out “the National Professional Standards Review Council and”.

42 USC 1395pp.

(e) Section 1879(e) of such Act is amended by striking out “professional standards review organization” and inserting in lieu thereof “quality control and peer review organization”.

## EFFECTIVE DATE

SEC. 149. The amendments made by this part shall, subject to section 150, be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act. 42 USC 1320c note.

## MAINTENANCE OF CURRENT PSRO AGREEMENTS

SEC. 150. (a) The Secretary of Health and Human Services shall not terminate or fail to renew any agreement in effect with a professional standards review organization under part B of title XI of the Social Security Act on the earlier of the date of the enactment of this Act or September 30, 1982 until such time as he enters into a contract with a utilization and quality control peer review organization under such part, as amended by this subtitle, for the area served by such professional standards review organization. In complying with this subsection, the Secretary may renew any such contract with a professional standards review organization for a period of less than 12 months. 42 USC 1320c note. 42 USC 1301.

(b) The provisions of part B of title XI of the Social Security Act as in effect prior to the amendments made by this subtitle shall remain in effect with respect to contracts with professional standards review organizations in effect on the earlier of the date of the enactment of this Act or September 30, 1982, until such time as such contract is terminated or is not renewed, in accordance with subsection (a). Any matters awaiting a determination by a Statewide Professional Standards Review Council on the date of the enactment of this Act shall be transferred to the Secretary of Health and Human Services for a determination unless such determination is made by such Council within 30 days after the date of the enactment of this Act. No payments shall be made under part B of title XI of the Social Security Act to Statewide Professional Standards Review Councils for services performed under section 1162 of such Act after the end of such 30-day period. 42 USC 1320c. 42 USC 1320c-11.

## Subtitle D—Aid to Families with Dependent Children

## ROUNDING OF ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 151. (a) Section 402(a) of the Social Security Act is amended— 95 Stat. 857. 42 USC 602.

(1) by striking out “and” at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new paragraph:

“(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount.”.

(b) The amendment made by this section shall become effective on October 1, 1982. Effective date. 42 USC 602 note.

EFFECTIVE DATE OF APPLICATION; PRORATION OF FIRST-MONTH'S AFDC  
BENEFIT

42 USC 602.

SEC. 152. (a) Section 402(a)(10) of the Social Security Act is amended—

(1) by striking out “provide, effective July 1, 1951, that all individuals” and inserting in lieu thereof “(A) provide that all individuals”;

(2) by adding “and” after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

“(B) provide that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount which would be payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month.”.

42 USC 602 note.

(b) The amendments made by this section shall become effective on October 1, 1982.

## ABSENCE FROM HOME SOLELY BY REASON OF UNIFORMED SERVICE

42 USC 606.

SEC. 153. (a) Section 406(a)(1) of the Social Security Act is amended by inserting “(other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States)” after “continued absence from the home”.

Effective date.  
42 USC 606 note.

(b) The amendment made by this section shall become effective on October 1, 1982.

## JOB SEARCH

42 USC 602.

SEC. 154. (a) Section 402(a) of the Social Security Act (as amended by section 151(a) of this Act) is further amended—

(1) by striking out “and” at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new paragraph:

“(35) at the option of the State, provide—

“(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to register pursuant to paragraph (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

“(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a

payment to or in behalf of any individual who is otherwise eligible for such aid); and

“(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

“(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in advance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

“(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19)(F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect).”.

(b)(1) Section 403(a)(3)(C) of such Act is amended by inserting immediately after “expenditures” the following: “(including as expenditures under this subparagraph the value of any services furnished, and the amount of any payments made (to cover expenses incurred by individuals under a program of employment search), under section 402(a)(35)(B))”. 42 USC 603.

(2) Section 403(a)(3) of such Act is further amended by striking out “other than services” in the matter immediately following subparagraph (C) and inserting in lieu thereof the following: “other than services furnished under section 402(a)(35)(B) (as described in the parenthetical phrase in subparagraph (C)), and other than services”.

(c) Section 409(b)(3) of such Act is amended—

95 Stat. 846.  
42 USC 609.

(1) in the first sentence—

(A) by inserting “, any program of employment search under section 402(a)(35),” after “pursuant to this section”,

(B) by striking out “both such programs” and inserting in lieu thereof “more than one such program”, and

(C) by striking out “in the other” and inserting in lieu thereof “in another”; and

(2) in the second sentence, by striking out “both such programs” and inserting in lieu thereof “more than one such program”.

(d) The amendments made by this section shall become effective on October 1, 1982.

Effective date.  
42 USC 602 note.

#### PRORATION OF STANDARD AMOUNT FOR SHELTER AND UTILITIES

SEC. 155. (a) Section 412 of the Social Security Act is amended to read as follows: 42 USC 612.

“PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH  
ANOTHER HOUSEHOLD

“SEC. 412. A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child or relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration used by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.”.

42 USC 1381.

42 USC 1382a.

Effective date.

42 USC 612 note.

(b) The amendment made by this section shall become effective on October 1, 1982.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS  
ASSISTANCE EXPENDITURES

42 USC 603.

SEC. 156. (a) Section 403(i) of the Social Security Act is amended to read as follows:

“(i)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State’s erroneous excess payments (as defined in subparagraph (C)) to its total payments under the State plan approved under this part exceeds—

“(i) 0.04 for fiscal year 1983, or

“(ii) 0.03 for any fiscal year thereafter,

then the Secretary shall make no payment for such fiscal year with respect to so much of the erroneous excess payments (as so defined) as exceeds the allowable error rate for such fiscal year.

“(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a fiscal year despite a good faith effort by such State.

“(C) For purposes of this subsection, the term ‘erroneous excess payments’ means the total of (i) payments to ineligible families, and (ii) overpayments to eligible families.

“(2) The State agency administering the plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

“(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

“(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State’s error rate for a fiscal year, the amount that would otherwise

be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

“(4) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.”.

(b) Section 403(a) of such Act is amended by striking out “In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.”.

42 USC 603.

(c) Section 403(j) of such Act is amended by striking out “If the dollar error rate of aid furnished by a State” and inserting in lieu thereof “In the case of Puerto Rico, Guam, or the Virgin Islands, if the dollar error rate of aid furnished by such State”.

42 USC 603.

(d)(1) The amendments made by subsections (a) and (b) shall become effective on October 1, 1982.

Effective date.  
42 USC 603 note.

(2) The inapplicability of section 403(j) of the Social Security Act to States other than Puerto Rico, Guam, and the Virgin Islands by reason of the amendment made by subsection (c) shall be effective with respect to six-month periods beginning after April 1983.

(e) The regulations currently in effect for fiscal year 1982 with respect to erroneous payments made by States under a State plan approved under part A of title IV of the Social Security Act (45 CFR 205.42) shall remain in effect with respect to erroneous payments made by States until new regulations reflecting the changes made by subsection (a) are promulgated and placed in effect.

42 USC 603 note.

42 USC 601.

#### EXCLUSION FROM INCOME OF CERTAIN STATE PAYMENTS

SEC. 157. (a) The last sentence of section 403(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: “, but any such amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning of section 402(a)(13) for the purpose of determining the amount of aid in the succeeding months”.

42 USC 603.

42 USC 602.

(b) The amendment made by this section shall become effective on October 1, 1982.

Effective date.  
42 USC 603 note.

#### EXTENSION OF TIME FOR STATES TO ESTABLISH A WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 158. (a) Section 445(b)(1) of the Social Security Act is amended by striking out “Not later than sixty days following the date of the enactment of this section” and inserting in lieu thereof “Not later than June 30, 1984”.

95 Stat. 850.  
42 USC 645.

(b) Section 445(b)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: “, but subject to waiver of such criteria as provided under section 1115”.

42 USC 1315.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date.  
42 USC 645 note.

## EXCLUSION FROM INCOME

- 42 USC 602 note. SEC. 159. Notwithstanding any other provision of law, payments which are made, under a statutorily established State program, to meet certain needs of children receiving aid under the State's plan approved under part A of title IV of the Social Security Act, if—
- 42 USC 601. (1) the payments are made to such children by the State agency administering such plan, but are made without Federal financial participation (under section 403(a) of such Act or otherwise), and
- (2) the State program has been continuously in effect since before January 1, 1979,
- shall be excluded from the income of such children and their families for purposes of section 402(a)(17) of such Act, and for all the other purposes of such part A and of such plan, effective on the date of the enactment of this Act.

## TECHNICAL AMENDMENTS TO SOCIAL SERVICES AND FOSTER CARE PROVISIONS IN 1981 RECONCILIATION ACT

- 42 USC 1308. SEC. 160. (a) Section 1108(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (3)(F)) the following new sentence:
- "Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection."
- 95 Stat. 868.  
42 USC 1397b. (b) Section 2003(b) of such Act is amended in the matter following clause (2) by inserting "(other than Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands)" after "the population of all the States".
- 95 Stat. 871.  
42 USC 1301. (c) The last sentence of section 1101(a)(1) of such Act is amended by striking out "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".
- 95 Stat. 871.  
42 USC 671. (d) Section 2353(r) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:
- "(r) Section 471(a)(10) of such Act is amended to read as follows:
- "(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;"
- Effective date.  
42 USC 1301  
note. (e) The amendments made by this section shall be effective as of October 1, 1981.

## DELAYED EFFECTIVE DATE IN CASES REQUIRING CONFORMING STATE LEGISLATION

- 42 USC 602 note. SEC. 161. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation



is required in order to conform the State plan approved under part A of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

42 USC 601.

## Subtitle E—Child Support Enforcement

### FEE FOR SERVICES TO NON-AFDC FAMILIES

SEC. 171. (a) Section 454(6) of the Social Security Act is amended—

95 Stat. 862.

(1) in clause (A), by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State,";

42 USC 654.

(2) in clause (B), by striking out "services under the State plan (other than collection of support)" and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected—

"(i) from the parent who owes the child or spousal support obligation involved, or

"(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;"

(b)(1) Section 454 of such Act is further amended—

95 Stat. 863.

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended".

95 Stat. 862.

42 USC 655.

(3) Section 303(e)(2)(A)(iii)(II) of the Social Security Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)".

42 USC 503.

(c) The amendments made by this section shall be effective on and after August 13, 1981.

Effective date.  
42 USC 503 note.

### ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

SEC. 172. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

**"ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY  
MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY**

42 USC 665.

"SEC. 465. (a)(1) In any case in which child support payments or child and spousal support payments are owed by a member of one of the uniformed services (as defined in section 101(3) of title 37, United States Code) on active duty, such member shall be required to make allotments from his pay and allowances (under chapter 13 of title 37, United States Code) as payment of such support, when he has failed to make periodic payments under a support order that meets the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(A)) and the resulting delinquency in such payments is in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person (as defined in subsection (b)) to the designated official in the appropriate uniformed service. Such notice (which shall in turn be given to the affected member) shall also specify the person to whom the allotment is to be payable. The amount of the allotment shall be the amount necessary to comply with the order (which, if the order so provides, may include arrearages as well as amounts for current support), except that the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his pay from the uniformed service, shall not exceed the limits prescribed in sections 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673 (b) and (c)). An allotment under this subsection shall be adjusted or discontinued upon notice from the authorized person.

"(2) Notwithstanding the preceding provisions of this subsection, no action shall be taken to require an allotment from the pay and allowances of any member of one of the uniformed services under such provisions (A) until such member has had a consultation with a judge advocate of the service involved (as defined in section 801(13) of title 10, United States Code), or with a law specialist (as defined in section 801(11) of such title) in the case of the Coast Guard, or with a legal officer designated by the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in any other case, in person, to discuss the legal and other factors involved with respect to the member's support obligation and his failure to make payments thereon, or (B) until 30 days have elapsed after the notice described in the second sentence of paragraph (1) is given to the affected member in any case where it has not been possible, despite continuing good faith efforts, to arrange such a consultation.

"Authorized  
person."

"(b) For purposes of this section the term 'authorized person' with respect to any member of the uniformed services means—

"(1) any agent or attorney of a State having in effect a plan approved under this part who has the duty or authority under such plan to seek to recover any amounts owed by such member as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and

"(2) the court which has authority to issue an order against such member for the support and maintenance of a child, or any agent of such court.

"(c) The Secretary of Defense, in the case of the Army, Navy, Air Force, and Marine Corps, and the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in the case of each of

the other uniformed services, shall each issue regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or notice to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice and specifying any other rules necessary for such Secretary to implement this section.”.

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

Effective date.  
42 USC 665 note.

#### REIMBURSEMENT OF STATE AGENCY IN INITIAL MONTH OF INELIGIBILITY FOR AFDC

SEC. 173. (a) Section 454(5) of the Social Security Act is amended by inserting “following the first month” after “for any month”.

42 USC 654.

(b) The amendment made by this section shall become effective on October 1, 1982.

Effective date.  
42 USC 654 note.

#### REDUCTION IN CERTAIN FEDERAL PAYMENTS TO STATES UNDER CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 174. (a) Section 455(a)(1) of the Social Security Act is amended by striking out “75 percent” and inserting in lieu thereof “70 percent”.

42 USC 655.

(b) Section 455(c) of such Act is repealed.

(c) Section 458(a) of such Act is amended by striking out “15 per centum” and inserting in lieu thereof “12 percent”.

42 USC 658.

(d) The amendment made by subsection (a) shall apply with respect to quarters beginning on or after October 1, 1982. Subsection (b) shall apply with respect to quarters beginning on or after October 1, 1983; and the amendment made by subsection (c) shall apply with respect to amounts collected on or after October 1, 1983.

42 USC 655 note.

#### TECHNICAL AMENDMENTS TO CHILD SUPPORT ENFORCEMENT PROVISIONS IN RECONCILIATION ACT

SEC. 175. (a)(1) The first sentence of section 452(b) of the Social Security Act is amended by striking out “certify” and all that follows and inserting in lieu thereof “certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6).”

42 USC 652.

26 USC 6305.

(2) Section 303(e)(2)(A)(i) of such Act is amended by striking out “of this subsection” and inserting in lieu thereof “of paragraph (1)”.

42 USC 654.

95 Stat. 863.

42 USC 503.

(b) The amendments made by this section shall be effective as of October 1, 1981.

Effective date.  
42 USC 503 note.

#### DELAYED EFFECTIVE DATE IN CASES REQUIRING STATE LEGISLATION

SEC. 176. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part

42 USC 654 note.

42 USC 601.

"Session."

solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

## Subtitle F—Supplemental Security Income

### EFFECTIVE DATE OF APPLICATION; PRORATION OF INITIAL SSI BENEFIT PAYMENT

95 Stat. 865.  
42 USC 1382.

SEC. 181. (a) Section 1611(c) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Secretary so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Secretary so determines, for such month and the following month) shall—

"(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

"(B) in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.

"(3) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

"(A) the date such application is filed, or

"(B) the date such individual first becomes eligible for such benefits with respect to such application."

Effective date.  
42 USC 1382  
note.

(b) The amendment made by this section shall become effective on October 1, 1982.

### ROUNDING OF SSI ELIGIBILITY AND BENEFIT AMOUNTS

42 USC 1382f.

SEC. 182. (a) Section 1617 of the Social Security Act is amended to read as follows:

#### "COST-OF-LIVING ADJUSTMENTS IN BENEFITS

42 USC 401.

"SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of a determination made under section 215(i)—

42 USC 415.

"(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under

42 USC 1382,  
411.

this section, shall be increased by the amount (if any) by which—

“(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

“(B) the amount in effect for such month under such subsection; and

“(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of \$12, to the next lower multiple of \$12), effective with respect to benefits for months after such month.

42 USC 401.

“(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of the determination involved.”.

Publication in  
Federal  
Register.  
42 USC 1382,  
411.  
42 USC 415.  
Effective date.  
42 USC 1382f  
note.

(b) The amendment made by this section shall become effective on October 1, 1982.

#### COORDINATION OF SSI AND OASDI COST-OF-LIVING ADJUSTMENTS

SEC. 183. (a) Section 1611(c) of the Social Security Act (as amended by section 181 of this Act) is further amended—

42 USC 1382.

(1) in paragraph (1) by striking out “paragraph (2)” and inserting in lieu thereof “paragraphs (2), (3), and (4)”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

“(3) For purposes of this subsection, an increase in the benefit amount payable under title II (over the amount payable in the preceding month, or, at the election of the Secretary, the second preceding month) to an individual receiving benefits under this title shall be included in the income used to determine the benefit under this title of such individual for any month which is—

“(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1617, or

“(B) at the election of the Secretary, the month immediately following such month.

“(4)(A) Notwithstanding paragraph (3), if the Secretary determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this title for such month may be determined on the basis of such information.

“(B) The Secretary shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this title.”.

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

Effective date.  
42 USC 1382  
note.

## PHASEOUT OF HOLD HARMLESS PROTECTION

42 USC 1382e  
note.

SEC. 184. (a) Section 401 of the Social Security Amendments of 1972 (Public Law 92-603) is amended by adding at the end thereof the following new subsection:

“(d) In addition to the amount which a State must pay to the Secretary for the fiscal year 1983 or the fiscal year 1984, as determined under subsection (a), the State shall also pay, for the fiscal year 1983, 60 percent of the further amount that would be payable but for the limit specified in subsection (a), and, for the fiscal year 1984, 80 percent of such further amount. For each fiscal year thereafter, the limit prescribed in subsection (a) shall be inapplicable and a State shall pay to the Secretary the full amount of any supplementary payments he makes on behalf of such State.”.

Effective date.  
42 USC 1382e  
note.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS AND CERTAIN FUNDS  
SET ASIDE FOR BURIAL EXPENSES

42 USC 1382b.

SEC. 185. (a) Section 1613(a)(2) of the Social Security Act is amended by inserting “(A)” after “(2)”, by adding “and” after the semicolon, and by adding at the end thereof the following new subparagraph:

“(B) the value of any burial space (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a place for the burial of the individual, his spouse, or any other member of his immediate family;”.

(b) Section 1613 of such Act is further amended by adding at the end thereof the following new subsection:

## “Funds Set Aside for Burial Expenses

“(d)(1) In determining the resources of an individual, there shall be excluded an amount, not in excess of \$1,500 each with respect to such individual and his spouse (if any), that is separately identifiable and has been set aside to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

42 USC 1382.

“(2) The amount of \$1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life which are owned by him or his spouse and the cash surrender value of which has been excluded in determining the resources of such individual or of such individual and his spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual or his spouse.

“(3) If the Secretary finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, he shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.

“(4) The Secretary may provide by regulations that whenever an amount set aside to meet burial and related expenses is excluded under paragraph (1) in determining the resources of an individual, any interest earned or accrued on such amount (and left to accumulate), and any appreciation in the value of prepaid burial arrangements for which such amount was set aside, shall also be excluded (to such extent and subject to such conditions or limitations as such regulations may prescribe) in determining the resources (and the income) of such individual.”.

(c) The amendment made by this section shall take effect on the first day of the second month after the month in which this Act is enacted.

Effective date.  
42 USC 1382b  
note.

#### MANDATORY PASSTHROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

SEC. 186. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382g.

“(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.”.

#### TREATMENT OF UNNEGOTIATED CHECKS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 187. (a) Section 1631(i)(2) of the Social Security Act (as added by section 2343(a) of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out “included in all checks payable to individuals entitled to benefits under this title but” in the first sentence and inserting in lieu thereof “included in all such benefit checks”.

95 Stat. 866.  
42 USC 1383.

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

Effective date.  
42 USC 1383  
note.

### Subtitle G—Unemployment Compensation

#### ROUNDING OF BENEFIT AMOUNTS

SEC. 191. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out “or” at the end of clause (B), and by inserting before the period at the end thereof the following: “, or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount”.

95 Stat. 884.  
26 USC 3304  
note.

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after October 1, 1983.

Effective date.  
42 USC 3304  
note.

“Session.”

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to provide for rounding down of unemployment compensation amounts, the amendment made by this section shall apply in the case of compensation paid to individuals during eligibility periods which begin on or after October 1, 1983, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term “session” means a regular, special, budget, or other session of a State legislature.

#### USE OF CERTAIN AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT FUNDS

42 USC 1103.

SEC. 192. (a) Paragraph (2) of section 903(c) of the Social Security Act is amended—

(1) by striking out “twenty-four” each place it appears and inserting in lieu thereof “thirty-four”; and

(2) by striking out “twenty-fourth” in the second sentence and inserting in lieu thereof “thirty-fourth”.

(b) Subsection (c) of section 903 of such Act is amended by adding at the end thereof the following new paragraph:

“(3)(A) If—

“(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals; and

“(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph,

then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

“(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State’s account.

42 USC 1321.

“(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under title XII of this Act.

“(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made.”.

#### TREATMENT OF CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

26 USC 3304.

SEC. 193. (a) Clause (ii) of section 3304(a)(6)(A) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended to read as follows:

26 USC 3309.

“(ii) with respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—



“(I) compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

“(II) if compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I).”

(b)(1) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

Effective date.  
26 USC 3304  
note.

(2) The amendment made by subsection (a), insofar as it requires retroactive payments of compensation to employees of educational institutions other than institutions of higher education (as defined in section 3304(f) of the Internal Revenue Code of 1954), shall not be a requirement for any State law before January 1, 1984.

#### SHORT-TIME COMPENSATION

SEC. 194. (a) It is the purpose of this section to assist States which provide partial unemployment benefits to individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of temporary layoffs.

26 USC 3304  
note.

(b)(1) The Secretary of Labor (hereinafter in this section referred to as the “Secretary”) shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs, and shall provide technical assistance to States to assist in developing, enacting, and implementing such short-time compensation program.

(2) The Secretary shall conduct a study or studies for purposes of evaluating the operation, costs, effect on the State insured rate of unemployment, and other effects of State short-time compensation programs developed pursuant to this section.

(3) This section shall be a three-year experimental provision, and the provisions of this section regarding guidelines shall terminate 3 years following the date of the enactment of this Act.

(4) States are encouraged to experiment in carrying out the purpose and intent of this section. However, to assure minimum uniformity, States are encouraged to consider requiring the provisions contained in subsections (c) and (d).

(c) For purposes of this section, the term “short-time compensation program” means a program under which—

Definitions.

(1) individuals whose workweeks have been reduced pursuant to a qualified employer plan by at least 10 per centum will be eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual shall be a pro rata portion of the unemploy-

ment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees may be eligible for short-time compensation or regular unemployment compensation, as needed; except that no employee shall be eligible for more than the maximum entitlement during any benefit year to which he or she would have been entitled for total unemployment, and no employee shall be eligible for short-time compensation for more than twenty-six weeks in any twelve-month period; and

(4) eligible employees will not be expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but shall be available for their normal workweek.

(d) For purposes of subsection (c), the term "qualified employer plan" means a plan of an employer or of an employers' association which association is party to a collective bargaining agreement (hereinafter referred to as "employers' association") under which there is a reduction in the number of hours worked by employees rather than temporary layoffs if—

(1) the employer's or employers' association's short-time compensation plan is approved by the State agency;

(2) the employer or employers' association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 per centum of the employees in the unit or units to which the plan would apply and which would have resulted in an equivalent reduction of work hours;

(3) during the previous four months the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 per centum;

(4) the employer continues to provide health benefits, and retirement benefits under defined benefit pension plans (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974, to employees whose workweek is reduced under such plan as though their workweek had not been reduced; and

(5) in the case of employees represented by an exclusive bargaining representative, that representative has consented to the plan.

The State agency shall review at least annually any qualified employer plan put into effect to assure that it continues to meet the requirements of this subsection and of any applicable State law.

(e) Short-time compensation shall be charged in a manner consistent with the State law.

(f) For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(g)(1) The Secretary shall conduct a study or studies of State short-time compensation programs consulting with employee and employer representatives in developing criteria and guidelines to measure the following factors:

(A) the impact of the program upon the unemployment trust fund, and a comparison with the estimated impact on the fund of layoffs which would have occurred but for the existence of the program;

(B) the extent to which the program has protected and preserved the jobs of workers, with special emphasis on newly hired employees, minorities, and women;

(C) the extent to which layoffs occur in the unit subsequent to initiation of the program and the impact of the program upon the entitlement to unemployment compensation of the employees;

(D) where feasible, the effect of varying methods of administration;

(E) the effect of short-time compensation on employers' State unemployment tax rates, including both users and nonusers of short-time compensation, on a State-by-State basis;

(F) the effect of various State laws and practices under those laws on the retirement and health benefits of employees who are on short-time compensation programs;

(G) a comparison of costs and benefits to employees, employers, and communities from use of short-time compensation and layoffs;

(H) the cost of administration of the short-time compensation program; and

(I) such other factors as may be appropriate.

(2) Not later than October 1, 1985, the Secretary shall submit to the Congress and to the President a final report on the implementation of this section. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable, including recommendations as to necessary changes in the statistical practices of the Department of Labor.

Report to  
President and  
Congress.

## TITLE II—REVENUE MEASURES

### Subtitle A—Provisions Relating to Individuals

#### SEC. 201. ALTERNATIVE MINIMUM TAX ON TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax for taxpayers other than corporations) is amended to read as follows:

26 USC 55.

#### “SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

“(a) TAX IMPOSED.—In the case of a taxpayer other than a corporation, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

“(1) an amount equal to 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount, over

“(2) the regular tax for the taxable year.

“(b) ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this title, the term ‘alternative minimum taxable income’ means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

“(1) reduced by the sum of—

“(A) the alternative tax net operating loss deduction, plus

“(B) the alternative tax itemized deductions, plus

26 USC 667.

“(C) any amount included in income under section 667,  
and

“(2) increased by the amount of items of tax preference.

“(c) CREDITS.—

26 USC 31.

“(1) IN GENERAL.—For purposes of determining any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

“(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

“(B) the amount of the foreign tax credit allowed by section 33(a) shall be determined without regard to this section.

“(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

“(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

“(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

“(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

“(ii) the tax imposed by subsection (a).

“(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

“(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

“(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

“(D) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term ‘alternative minimum taxable income from sources without the United States’ means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

“(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

“(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

26 USC 904.

“(ii) any increase under subparagraph (B) shall be taken into account.

“(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

“(A) IN GENERAL.—In the case of any taxable year in which a tax is imposed by this section, for purposes of determining the amount of any carryback or carryover of any applicable credit to any other taxable year, the amount of the applicable credit limitation for such taxable year shall be deemed to be—

“(i) the amount of the applicable credit allowable for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

“(ii) the amount of the tax imposed by this section for the taxable year, reduced by—

“(I) the amount of the credit allowable under section 33(a), and

“(II) the amount of such tax taken into account under this clause with respect to any applicable credit having a lower number or letter designation.

“(B) APPLICABLE CREDITS, ETC.—For purposes of this paragraph—

“(i) APPLICABLE CREDIT.—The term ‘applicable credit’ means any credit allowable under section 38, 40, 44B, 44C, 44E, or 44F.

“(ii) APPLICABLE CREDIT LIMITATION.—The term ‘applicable credit limitation’ means, with respect to any applicable credit, the limitation under section 46(a)(3), 53(a), 44C(b)(5), 44E(e)(1), 44F(g)(1), or 50A(a)(2), whichever is appropriate.

“(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘alternative tax net operating loss deduction’ means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

“(A) in the case of taxable years beginning after December 31, 1982, section 172(b)(2) shall be applied by substituting ‘alternative minimum taxable income’ for ‘taxable income’ each place it appears, and

“(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

“(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

“(A) POST-1982 LOSS YEARS.—In the case of a loss year beginning after December 31, 1982, the net operating loss for such year under section 172(c) shall—

“(i) be reduced by the amount of the items of tax preference arising in such year which are taken into account in computing the net operating loss, and

“(ii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions for the taxable year and which are otherwise described in section 172(c).

“(B) **PRE-1983 YEARS.**—In the case of loss years beginning before January 1, 1983, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1982, for purposes of subparagraph (A), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1982.

“(e) **ALTERNATIVE TAX ITEMIZED DEDUCTIONS.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘alternative tax itemized deductions’ means an amount equal to the sum of any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

“(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

“(B) section 170 (relating to charitable deductions),

“(C) section 213 (relating to medical deductions),

“(D) this chapter for qualified interest, or

“(E) section 691(c) (relating to deduction for estate tax).

“(2) **AMOUNTS WHICH MAY BE CARRIED OVER.**—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

“(3) **QUALIFIED INTEREST.**—The term ‘qualified interest’ means the sum of—

“(A) any qualified housing interest, and

“(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

“(4) **QUALIFIED HOUSING INTEREST.**—

“(A) **IN GENERAL.**—The term ‘qualified housing interest’ means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

“(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

“(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

“(B) **QUALIFIED DWELLING.**—The term ‘qualified dwelling’ means any—

“(i) house,

“(ii) apartment,

“(iii) condominium, or

“(iv) mobile home not used on a transient basis

(within the meaning of section 7701(a)(19)(C)(v)), including all structures or other property appurtenant thereto.

“(C) **SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.**—The term ‘qualified housing interest’ includes interest paid or accrued on indebtedness which—

“(i) was incurred by the taxpayer before July 1, 1982, and

“(ii) is secured by property which, at the time such indebtedness was incurred, was—

“(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

26 USC 1034.

“(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

“(5) **QUALIFIED NET INVESTMENT INCOME.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘qualified net investment income’ means the excess of—

“(i) qualified investment income, over

“(ii) qualified investment expenses.

“(B) **QUALIFIED INVESTMENT INCOME.**—The term ‘qualified investment income’ means the sum of—

“(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof),

“(ii) any net capital gain attributable to the disposition of property held for investment, and

“(iii) the amount of items of tax preference described in paragraph (1) of section 57(a).

“(C) **QUALIFIED INVESTMENT EXPENSES.**—The term ‘qualified investment expenses’ means the deductions directly connected with the production of qualified investment income to the extent that—

“(i) such deductions are allowable in computing adjusted gross income, and

“(ii) such deductions are not items of tax preference.

“(6) **SPECIAL RULES FOR ESTATES AND TRUSTS.**—

“(A) **IN GENERAL.**—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

“(B) **DETERMINATION OF ADJUSTED GROSS INCOME.**—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

“(7) **LIMITATION ON MEDICAL DEDUCTION.**—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting ‘10 percent’ for ‘5 percent’ in section 213(a).

*Post*, p. 421.

“(8) **TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.**—

“(A) **CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.**—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

“(B) **INCOME TREATED AS QUALIFIED INVESTMENT INCOME.**—Any income derived from a limited business interest shall be treated as qualified investment income.

“(C) **LIMITED BUSINESS INTEREST.**—The term ‘limited business interest’ means an interest—

“(i) as a limited partner in a partnership, or  
 “(ii) as a shareholder in an electing small business corporation (as defined in section 1371(b)) if the taxpayer does not actively participate in the management of such corporation.

“(f) OTHER DEFINITIONS.—For purposes of this section—

“(1) EXEMPTION AMOUNT.—The term ‘exemption amount’ means—

“(A) \$40,000 in the case of—

“(i) a joint return, or

“(ii) a surviving spouse (as defined in section 2(a)),

“(B) \$30,000 in the case of an individual who—

“(i) is not a married individual (as defined in section 143), and

“(ii) is not a surviving spouse (as so defined), and

“(C) \$20,000 in the case of—

“(i) a married individual (as so defined) who files a separate return, or

“(ii) an estate or trust.

“(2) REGULAR TAX.—The term ‘regular tax’ means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 72(q), 402(e), 408(f), 409(c), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43). For purposes of this paragraph, the amount of the credits allowable under such subpart shall be determined without regard to this section.”

(b) ITEMS OF TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

“(1) EXCLUSION OF INTEREST AND DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116 or 128.”

(B) by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

“(5) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

“(A) the amount allowable as a deduction under section 616(a) or 617, over

“(B) the amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.

“(6) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—An amount equal to the excess of—

“(A) the amount allowable as a deduction under section 173 or 174(a) for the taxable year, over

“(B) the amount which would have been allowable for the taxable year if the circulation expenditures described in section 173 or the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.”, and

*Post*, pp. 509,  
546.

*Post*, p. 585.

26 USC 57.



(C) by striking out paragraph (10) and inserting in lieu thereof the following:

“(10) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price.”

(2) CONFORMING AMENDMENTS.—

(A) The next to last sentence of section 57(a) is amended by striking out “(3), (11), and (12)” and inserting in lieu thereof “(1), (3), (5), (6), (11), and (12)(A)”. 95 Stat. 224.  
26 USC 57.

(B) Section 57(a) is amended by striking out the last sentence.

(c) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES—

(1) Section 58 (relating to rules for application of minimum tax) is amended by adding at the end thereof the following new subsection: 26 USC 58.

“(i) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

“(1) IN GENERAL.—For purposes of this title, in the case of an individual, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period beginning with the taxable year in which such expenditure was made.

“(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term ‘qualified expenditure’ means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

“(A) section 173 (relating to circulation expenditures),

“(B) section 174(a) (relating to research and experimental expenditures),

“(C) section 263(c) (relating to intangible drilling and development expenditures),

“(D) section 616(a) (relating to development expenditures), or

“(E) section 617 (relating to deduction of certain mining exploration expenditures).

“(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

“(4) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS NOT ALLOCABLE TO INTEREST AS LIMITED PARTNER.—

“(A) IN GENERAL.—In the case of any nonlimited partnership intangible drilling costs to which an election under this paragraph applies—

“(i) the applicable percentage of such costs (adjusted as provided in section 48(q)) shall be allowed as a deduction for the taxable year in which paid or incurred and for each of the 4 succeeding taxable years, and

“(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

*Post*, p. 427.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means the percentage determined in accordance with the following table:

“Taxable Year:	Applicable percentage:
1 .....	15
2 .....	22
3 .....	21
4 .....	21
5 .....	21

“(C) NONLIMITED PARTNERSHIP INTANGIBLE DRILLING COSTS.—For purposes of this paragraph, the term ‘non-limited partnership intangible drilling costs’ means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to such individual’s interest as a limited partner in a limited partnership.

“(5) ELECTION.—

“(A) IN GENERAL.—An election may be made under this subsection with respect to any qualified expenditure.

“(B) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any qualified expenditure may be revoked only with the consent of the Secretary.

“(C) TIME AND MANNER.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

“(D) PARTNERS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner’s allocable share of any qualified expenditure.

“(6) DISPOSITIONS.—

“(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section)—

“(i) any deduction under paragraph (1) or (4)(A) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), and

“(ii) in the case of any credit allowable under section 38 by reason of paragraph (4)(B) which is allocable to such property, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

“(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

“(7) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a).”

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out “and” at the end of paragraph (23), by striking out the period at the end of paragraph (24) and

95 Stat. 239.  
26 USC 1016.

inserting in lieu thereof “, and”, and by adding at the end thereof the following new paragraph:

“(25) for amounts allowed as deductions under section 58(i) (relating to optional 10-year writeoff of certain tax preferences).”

(c) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to corporate minimum tax) is amended— 26 USC 56.

(A) by striking out “person” each place it appears and inserting in lieu thereof “corporation”,

(B) by striking out “one-half (or in the case of a corporation, an amount equal to)” in subsection (c),

(C) by striking out “sections 72(m)(5)(B), 402(e), 408(f), 531, and 541” in subsection (c) and inserting in lieu thereof “sections 531 and 541”,

(D) by striking out “31, 39, 43, and 44G” in subsection (c) and inserting in lieu thereof “39 and 44G”, and 95 Stat. 293.

(E) by striking out the section heading and inserting in lieu thereof the following:

“SEC. 56. CORPORATE MINIMUM TAX.”

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

“Sec. 56. Corporate minimum tax.”

(3) Section 58 (relating to rules for application of minimum taxes) is amended— 26 USC 58.

(A) by striking out subsection (a),

(B) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the items of tax preference for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.”, and

(C) in subsection (g)—

(i) by striking out “paragraphs (6) and” in paragraph (1) and inserting in lieu thereof “paragraph”, and

(ii) by striking out so much of paragraph (2) as precedes the last two sentences thereof and inserting in lieu thereof the following:

“(2) CAPITAL GAINS.—For purposes of section 56, the items of tax preference set forth in section 57(a)(9) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets).”

(4) Section 5(a)(4) is amended by striking out “sections 55 and 56” and inserting in lieu thereof “section 55”. 26 USC 5.

(5) Section 511(d)(2) is amended by striking out “and section 56 (as the case may be)”. 26 USC 511.

(6) Subparagraph (A) of section 897(a)(2) (relating to 20-percent minimum tax on nonresident alien individuals) is amended to read as follows: 26 USC 897.

“(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1)

for the taxable year shall not be less than 20 percent of the lesser of—

“(i) the individual’s alternative minimum taxable income (as defined in section 55(b)) for the taxable year, or

“(ii) the individual’s net United States real property gain for the taxable year.”

26 USC 6015,  
6362, 6654.

(7) Sections 6015(d)(1), 6362(b)(2)(A), and 6654(g)(1) are each amended by striking out “or 56”.

26 USC 46, 53,  
901.

(8)(A) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out “(relating to minimum tax for tax preferences)” and inserting in lieu thereof “(relating to corporate minimum tax)”.

26 USC 936.

(B) Subparagraph (A) of section 936(a)(3) is amended by striking out “(relating to minimum tax)” and inserting in lieu thereof “(relating to corporate minimum tax)”.

26 USC 173.

(9)(A) Section 173 (relating to circulation expenditures) is amended—

(i) by striking out “Notwithstanding section 263” and inserting in lieu thereof

“(a) GENERAL RULE.—Notwithstanding section 263”, and

(ii) by adding at the end thereof the following new subsection:

“(b) CROSS REFERENCE.—

“For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).”

26 USC 174.

(B) Subsection (e) of section 174 (relating to research and experimental expenditures) is amended—

(i) by striking out “For adjustments” and inserting in lieu thereof

“(1) For adjustments”,

(ii) by adding at the end thereof the following new paragraph:

“(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).”,

and

(iii) by striking out “CROSS REFERENCE” and inserting in lieu thereof “CROSS REFERENCES”.

26 USC 616.

(C) Section 616 (relating to development expenditures) is amended by adding at the end thereof the following new subsection:

“(d) CROSS REFERENCE.—

“For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).”

26 USC 617.

(D) Section 617 (relating to deduction of certain mining exploration expenditures) is amended by adding at the end thereof the following new subsection:

“(j) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under this section, see section 58(i)."

(10) Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(38) JOINT RETURN.—The term 'joint return' means a single return made jointly under section 6013 by a husband and wife."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 55 note.

(2) SPECIAL RULE FOR PRE-1983 SECTION 56(b) TAX DEFERRALS.—The amendments made by subsection (c)(1) of this section to section 56(b) of the Internal Revenue Code of 1954 shall not apply to any net operating loss carryover from any taxable year beginning before January 1, 1983, which is attributable to any excess described in section 56(b)(1)(B) of such Code for such taxable year. 26 USC 56 note.

## SEC. 202. LIMITATION ON MEDICAL DEDUCTION.

(a) GENERAL RULE.—Subsection (a) of section 213 (relating to deduction for medical, dental, etc., expenses) is amended to read as follows: 26 USC 213.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 5 percent of adjusted gross income."

(b) TREATMENT OF MEDICINE AND DRUGS.—

(1) IN GENERAL.—Subsection (b) of section 213 (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin."

(2) DEFINITION OF PRESCRIBED DRUG.—Subsection (e) of section 213 is amended by inserting after paragraph (1) the following new paragraphs:

"(2) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 213 (as in effect before the amendment made by paragraph (2)) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively.

(B) Subsections (d), (e), and (f) of section 213 are redesignated as subsections (c), (d), and (e), respectively.

(C) Subsection (b) of section 105 is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)". 26 USC 105.

(c) EFFECTIVE DATES.—

26 USC 213 note.

- (1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.
- (2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

**SEC. 203. LIMITATION ON DEDUCTION FOR NONBUSINESS CASUALTY LOSSES.**

26 USC 165.

(a) **GENERAL RULE.**—Section 165 (relating to losses) is amended by striking out subsection (h), by redesignating subsection (i) as subsection (j), and by inserting after subsection (g) the following new subsections:

“(h) **CASUALTY AND THEFT LOSSES.**—

“(1) **GENERAL RULE.**—Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

“(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds \$100, and

“(B) the aggregate amount of all such losses sustained by such individual during the taxable year (determined after application of subparagraph (A)) exceeds 10 percent of the adjusted gross income of the individual.

“(2) **SPECIAL RULES.**—

“(A) **JOINT RETURNS.**—For purposes of the \$100 and 10 percent limitations described in paragraph (1), a husband and wife making a joint return for the taxable year shall be treated as one individual.

“(B) **COORDINATION WITH ESTATE TAX.**—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

“(i) **DISASTER LOSSES.**—

“(1) **ELECTION TO TAKE DEDUCTION FOR PRECEDING YEAR.**—Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

“(2) **YEAR OF LOSS.**—If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

“(3) **AMOUNT OF LOSS.**—The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss.”

(b) **CONFORMING AMENDMENT.**—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(1) by inserting “except as provided in subsection (h),” before “losses” the first place it appears in paragraph (3) thereof, and

(2) by striking out the last three sentences.

26 USC 165 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. Such amendments shall also apply to the taxpayer's last taxable year beginning before January 1, 1983, solely for purposes of determining

the amount allowable as a deduction with respect to any loss taken into account for such year by reason of an election under section 165(i) of the Internal Revenue Code of 1954 (as amended by this section).

## **Subtitle B—Provisions Primarily Relating to Business**

### **PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS**

#### **SEC. 204. 15 PERCENT REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS.**

(a) **IN GENERAL.**—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

#### **“PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS**

“Sec. 291. Special rules relating to corporate preference items.

#### **“SEC. 291. SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS. 26 USC 291.**

“(a) **15-PERCENT REDUCTION IN CERTAIN PREFERENCE ITEMS, ETC.**—For purposes of this subtitle, in the case of an applicable corporation—

“(1) **SECTION 1250 CAPITAL GAIN TREATMENT.**—In the case of section 1250 property which is disposed of during the taxable year, 15 percent of the excess (if any) of—

“(A) the amount which would be treated as ordinary income if such property was section 1245 property or section 1245 recovery property, over

“(B) the amount treated as ordinary income under section 1250,

shall be treated as gain which is ordinary income and shall be recognized notwithstanding any other provision of this title.

“(2) **REDUCTION IN PERCENTAGE DEPLETION.**—In the case of iron ore and coal (including lignite), the amount allowable as a deduction under section 613 with respect to any property (as defined in section 614) shall be reduced by 15 percent of the amount of the excess (if any) of—

“(A) the amount of the deduction allowable under section 613 for the taxable year (determined without regard to this paragraph), over

“(B) the adjusted basis of the property at the close of the taxable year (determined without regard to the depletion deduction for the taxable year).

“(3) **CERTAIN FINANCIAL INSTITUTION PREFERENCE ITEMS.**—The amount allowable as a deduction under this chapter (determined without regard to this section) with respect to any financial institution preference item shall be reduced by 15 percent.

“(4) **CERTAIN DEFERRED DISC INCOME.**—If an applicable corporation is a shareholder of a DISC, in the case of taxable years beginning after December 31, 1982, section 995(b)(1)(F)(i) shall be

26 USC 169.

applied with respect to such corporation by substituting '57.5 percent' for 'one-half'.

"(5) AMORTIZATION OF POLLUTION CONTROL FACILITIES.—If an election is made under section 169 with respect to any certified pollution control facility, the amortizable basis of such facility for purposes of such section shall be reduced by 15 percent.

"(b) SPECIAL RULES FOR TREATMENT OF INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) IN GENERAL.—The amount allowable as a deduction for any taxable year (determined without regard to this section)—

"(A) under section 263(c) in the case of an integrated oil company, or

"(B) under section 616(a) or 617,

shall be reduced by 15 percent.

"(2) Special rule for amounts not allowable as deductions under paragraph (1).—

"(A) INTANGIBLE DRILLING COSTS.—The amount not allowable as a deduction under section 263(c) for any taxable year by reason of paragraph (1) shall be allowable as a deduction ratably over the 36-month period beginning with the month in which the costs are paid or incurred.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1)—

"(i) the applicable percentage of the amount not so allowable as a deduction shall be allowable as a deduction for the taxable year in which the costs are paid or incurred and in each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (2)(B), the term 'applicable percentage' means the percentage determined in accordance with the following table:

Taxable Year:	Applicable Percentage:
1.....	15
2.....	22
3.....	21
4.....	21
5.....	21.

"(4) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (2)(A) with respect to intangible drilling and development costs under section 263(c) which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).



“(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this section), any amount allowable as a deduction under paragraph (2)(B) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a). 26 USC 617.

“(C) RECAPTURE OF INVESTMENT CREDIT.—In the case of any disposition of any property to which the credit allowable under section 38 by reason of paragraph (2)(B) is allocable, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

“(5) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term ‘integrated oil company’ means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

“(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to intangible drilling and development costs or mining exploration and development costs shall not be taken into account for purposes of determining depletion under section 611.

“(c) SPECIAL RULES RELATING TO POLLUTION CONTROL FACILITIES.—For purposes of this subtitle—

“(1) ACCELERATED COST RECOVERY DEDUCTION.—For purposes of subclause (I) of section 168(d)(1)(A)(ii), a taxpayer shall not be treated as electing the amortization deduction under section 169 with respect to that portion of the basis not taken into account under section 169 by reason of subsection (a)(5). 95 Stat. 204.

“(2) 1250 RECAPTURE.—Subsection (a)(1) shall not apply to any section 1250 property which is part of a certified pollution control facility (within the meaning of section 169(d)(1)) with respect to which an election under section 169 was made.

“(d) SPECIAL RULE FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust (as defined in section 856), the difference between the amounts described in subparagraphs (A) and (B) of subsection (a)(1) shall be reduced to the extent that a capital gain dividend (as defined in section 857(b)(3)(C), applied without regard to this section) is treated as paid out of such difference. Any capital gain dividend treated as having been paid out of such difference to a shareholder which is an applicable corporation retains its character in the hands of the shareholder as gain from the disposition of section 1250 property for purposes of applying subsection (a)(1) to such shareholder.

“(e) DEFINITIONS.—For purposes of this section—

“(1) FINANCIAL INSTITUTION PREFERENCE ITEM.—The term ‘financial institution preference item’ includes the following:

“(A) EXCESS RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the excess of—

“(i) the amount which would, but for this section, be allowable as a deduction for the taxable year for a reasonable addition to a reserve for bad debts, over

“(ii) the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

“(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31, 1982.—

“(i) IN GENERAL.—In the case of a financial institution to which section 585 or 593 applies, the amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1982, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction would (but for this paragraph) be allowable with respect to such interest for such taxable year.

“(ii) DETERMINATION OF INTEREST ALLOCABLE TO INDEBTEDNESS ON TAX-EXEMPT OBLIGATIONS.—Unless the taxpayer (under regulations prescribed by the Secretary) establishes otherwise, the amount determined under clause (i) shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as—

“(I) the taxpayer’s average adjusted basis (within the meaning of section 1016) of obligations described in clause (i), bears to

“(II) such average adjusted basis for all assets of the taxpayer.

“(2) APPLICABLE CORPORATION.—For purposes of this section, the term ‘applicable corporation’ means any corporation other than an electing small business corporation (as defined in section 1371(b)).

“(3) SECTION 1245 AND 1250 PROPERTY.—The terms ‘section 1245 property’, ‘section 1245 recovery property’, and ‘section 1250 property’ have the meanings given such terms by sections 1245(a)(3), 1245(a)(5), and 1250(c), respectively.”

(b) COORDINATION WITH MINIMUM TAX.—Section 57(b) (relating to adjusted itemized deductions) is amended to read as follows:

“(b) APPLICATION WITH SECTION 291.—

“(1) IN GENERAL.—In the case of any item of tax preference of an applicable corporation described in—

“(A) paragraph (4) or (7) of subsection (a), or

“(B) paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

“(2) CERTAIN CAPITAL GAINS.—In determining the net capital gain of any applicable corporation for purposes of paragraph (9)(B) of subsection (a), there shall be taken into account only 71.6 percent of any gain from the sale or exchange of section 1250 property which is equal to 85 percent of the excess determined under section 291(a)(1) with respect to such property.

“(3) APPLICABLE CORPORATION DEFINED.—For purposes of this subsection, the term ‘applicable corporation’ has the meaning given such term by section 291(e)(2).”

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 263 (relating to intangible drilling and development costs) is amended by adding at the end thereof the following new sentence: “This subsection shall not apply

95 Stat. 222.  
26 USC 1245.  
26 USC 57.

*Ante*, p. 423.

26 USC 263.

with respect to any costs to which any deduction is allowed under section 58(i) or 291.”

*Ante*, pp. 417, 423.

(2) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following:

“Part XI. Special rules relating to corporate preference items.”

(d) EFFECTIVE DATES.—

26 USC 291 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) 1250 GAIN.—Section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1982, in taxable years ending after such date.

*Ante*, p. 423.

(3) POLLUTION CONTROL FACILITIES.—Section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1982, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—Section 291(b) of such Code shall apply to expenditures after December 31, 1982, in taxable years ending after such date.

(5) REDUCTION IN PERCENTAGE DEPLETION FOR COAL AND IRON ORE.—Section 291(a)(2) of such Code shall apply to taxable years beginning after December 31, 1983.

(6) MINIMUM TAX.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1982, with respect to items of tax preference described in section 57(b) of such Code to which section 291 of such Code applies; except that in the case of an item described in section 291(a)(2) of such Code, such amendment shall apply to taxable years beginning after December 31, 1983.

*Ante*, p. 426.

SEC. 205. AMENDMENTS TO INVESTMENT CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT.—

26 USC 48.

(1) IN GENERAL.—Section 48 (relating to definitions and special rules involving section 38 property) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) BASIS ADJUSTMENT TO SECTION 38 PROPERTY.—

“(1) IN GENERAL.—For purposes of this subtitle, if a credit is determined under section 46(a)(2) with respect to section 38 property, the basis of such property shall be reduced by 50 percent of the amount of the credit so determined.

“(2) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any section 38 property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to 50 percent of such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47.

“Recapture amounts.”

“(3) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraphs (1) and (2) shall be applied without regard to the phrase ‘50 percent of’.

**“(4) ELECTION OF REDUCED CREDIT IN LIEU OF BASIS ADJUSTMENT FOR REGULAR PERCENTAGE.—**

**“(A) IN GENERAL.—**If the taxpayer elects to have this paragraph apply with respect to any recovery property—

26 USC 46.

“(i) paragraphs (1) and (2) shall not apply to so much of the credit determined under section 46(a)(2) with respect to such property as is attributable to the regular percentage set forth in section 46(a)(2)(B); and

“(ii) the amount of the credit allowable under section 38 with respect to such property shall be determined under subparagraph (B).

**“(B) REDUCTION IN CREDIT.—**In the case of any recovery property to which an election under subparagraph (A) applies—

“(i) solely for the purposes of applying the regular percentage, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent, and

“(ii) notwithstanding section 46(a)(2)(B), the regular percentage shall be—

“(I) 8 percent in the case of recovery property other than 3-year property, or

“(II) 4 percent in the case of recovery property which is 3-year property.

95 Stat. 204.

For purposes of the preceding sentence, RRB replacement property (within the meaning of section 168(f)(3)(B)) shall be treated as property which is not 3-year property.

**“(C) TIME AND MANNER OF MAKING ELECTION.—**

“(i) **IN GENERAL.—**An election under this subsection with respect to any property shall be made on the taxpayer's return of the tax imposed by this chapter for the taxpayer's taxable year in which such property is placed in service (or in the case of property to which an election under section 46(d) applies, for the first taxable year for which qualified progress expenditures were taken into account with respect to such property).

“(ii) **REVOCABLE ONLY WITH CONSENT.—**An election under this subsection with respect to any property, once made, may be revoked only with the consent of the Secretary.

**“(5) RECAPTURE OF REDUCTIONS.—**

**“(A) IN GENERAL.—**For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

**“(B) SPECIAL RULE FOR SECTION 1250.—**For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.”

**(2) ALLOWANCE OF DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.—**Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 196.

**“SEC. 196. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.**

**“(a) ALLOWANCE OF DEDUCTIONS.—**If—

“(1) the amount of the credit determined under section 46(a)(2) for any taxable year exceeds the limitation provided by section 46(a)(3) for such taxable year, and 26 USC 46.

“(2) the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year,

then an amount equal to 50 percent of the amount of such excess (to the extent attributable to property the basis of which is reduced under section 48(q)) not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit.

*Ante*, p. 427.

“(b) **TAXPAYERS DYING OR CEASING TO EXIST.**—If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in subsection (a) could under section 46(b) have been allowed as a credit, the amount described in subsection (a), or the proper portion thereof, shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

“(c) **SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.**—In the case of any credit to which section 48(q)(3) applies, subsection (a) shall be applied without regard to the phrase ‘50 percent of.’”

(3) **BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF EARNINGS AND PROFITS.**—Section 312(k) (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

26 USC 312.

“(5) **BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT.**—In computing the earnings and profits of a corporation for any taxable year, the allowance for depreciation (and amortization, if any) shall be computed without regard to any basis adjustment under section 48(q).”

(4) **SPECIAL RULES FOR CERTAIN LEASED PROPERTY.**—Section 48(d) (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

26 USC 48.

“(5) **COORDINATION WITH BASIS ADJUSTMENT.**—In the case of any property with respect to which an election is made under this subsection—

“(A) subsection (q) (other than paragraph (4)) shall not apply with respect to such property,

“(B) the lessee of such property shall include ratably in gross income over the shortest recovery period which could be applicable under section 168 with respect to such property an amount equal to 50 percent of the amount of the credit allowable under section 38 to the lessee with respect to such property, and

“(C) in the case of a disposition of such property to which section 47 applies, this paragraph shall be applied in accordance with regulations prescribed by the Secretary.”

(5) **CONFORMING AMENDMENTS.**—

(A) Section 48(g) (relating to special rules for qualified rehabilitated buildings) is amended by striking out paragraph (5).

(B) Paragraph (24) of section 1016(a) (relating to adjustments to basis) is amended by striking out “section 48(g)(5)” and inserting in lieu thereof “section 48(q)”

95 Stat. 239.

(C) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 196. Deduction for certain unused investment credits.”

**(b) INVESTMENT CREDIT LIMITED TO 85 PERCENT OF TAX LIABILITY INSTEAD OF 90 PERCENT.—**

26 USC 46.

(1) **IN GENERAL.**—Subparagraph (B) of section 46(a)(3) (relating to limitation based on amount of tax) is amended to read as follows:

“(B) 85 percent of so much of the liability for tax for the taxable year as exceeds \$25,000.”

**(2) TECHNICAL AMENDMENTS.—**

(A) Subsection (a) of section 46 is amended by striking out paragraphs (7) and (8) and by redesignating paragraph (9) as paragraph (7).

(B) Clause (i) of section 46(a)(7)(B), as redesignated by subparagraph (A), is amended to read as follows:

“(i) paragraph (3)(B) shall be applied by substituting ‘100 percent’ for ‘85 percent’, and”.

(C) Subparagraph (B) of section 46(a)(7), as redesignated by subparagraph (A), is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

**(c) EFFECTIVE DATES.—**

26 USC 196, note.

**(1) SUBSECTION (a).—**

(A) **GENERAL RULE.**—Except as otherwise provided in this paragraph, the amendments made by subsection (a) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(B) **EXCEPTION.**—The amendments made by subsection (a) shall not apply to any property which—

(i) is constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) is placed in service after December 31, 1982, and before January 1, 1986,

(iii) with respect to which an election under section 168(f)(8)(A) of such Code is not in effect at any time, and

(iv) is not described in section 167(1)(3)(A) of such Code.

**(C) SPECIAL RULE FOR INTEGRATED MANUFACTURING FACILITIES.—**

(i) **IN GENERAL.**—In the case of any integrated manufacturing facility, the requirements of clause (i) of subparagraph (B) shall be treated as met if—

(I) the on-site construction of the facility began before July 1, 1982, and

(II) during the period beginning after August 13, 1981, and ending on July 1, 1982, the taxpayer constructed (or entered into binding contracts for the construction of) more than 20 percent of the cost of such facility.

*Post*, p. 442.

(ii) **INTEGRATED MANUFACTURING FACILITY.**—For purposes of clause (i), the term ‘integrated manufacturing facility’ means 1 or more facilities—

(I) located on a single site,

(II) for the manufacture of 1 or more manufactured products from raw materials by the application of 2 or more integrated manufacturing processes.

(D) **SPECIAL RULE FOR HISTORIC STRUCTURES.**—In the case of any certified historic structure (as defined in section 48(g)(3) of the Internal Revenue Code of 1954), clause (i) of subparagraph (B) shall be applied by substituting “December 31, 1980” for “August 13, 1981.”

26 USC 48.

(E) **CERTAIN PROJECTS WITH RESPECT TO HISTORIC STRUCTURES.**—In the case of any certified historic structure (as so defined), the requirements of clause (i) of subparagraph (B) shall be treated as met with respect to such property—

(i) if the rehabilitation begins after December 31, 1980, and before July 1, 1982, or

(ii) if—

(I) before July 1, 1982, a public offering with respect to interests in such property was registered with the Securities and Exchange Commission,

(II) before such date an application with respect to such property was filed under section 8 of the United States Housing Act of 1937, and

42 USC 1437f.

(III) such property is placed in service before July 1, 1984.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1982.

26 USC 46 note.

#### SEC. 206. REPEAL OF 1985 AND 1986 INCREASES IN ACCELERATED COST RECOVERY DEDUCTIONS.

(a) **IN GENERAL.**—Paragraph (1) of section 168(b) (relating to amount of accelerated cost recovery deduction) is amended—

95 Stat. 204.

(1) by striking out “tables” and inserting in lieu thereof “table”;

(2) by striking out:

“(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—”; and

(3) by striking out subparagraphs (B) and (C).

(b) **CONFORMING AMENDMENTS.**—Paragraph (4) of section 168(e) (relating to property excluded from application of section) is amended—

(1) by striking out subparagraph (H); and

(2) by striking out “1986” in the heading thereof and inserting in lieu thereof “1981”.

#### SEC. 207. SECTION 189 MADE APPLICABLE TO CERTAIN CORPORATIONS FOR NONRESIDENTIAL REAL PROPERTY.

(a) **IN GENERAL.**—Subsection (a) of section 189 is amended to read as follows:

26 USC 189.

“(a) **CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.**—Except as otherwise provided in this section or in section 266 (relating to carrying charges), no deduction shall be allowed for real property construction period interest and taxes.”

95 Stat. 264.

(b) **EXCLUSION OF CERTAIN PROPERTY.**—Subsection (d) of section 189 (relating to certain property excluded) is amended—

(1) by striking out “or” at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) residential real property (other than low income housing) acquired, constructed, or carried by a corporation other than an electing small business corporation (within the meaning of section 1371(b)), a personal holding company (within the meaning of section 542), or a foreign personal holding company (within the meaning of section 552), or”.

26 USC 189.

(c) **ALLOCATION OF INTEREST.**—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended by adding at the end thereof the following sentence: “The Secretary shall prescribe regulations which provide for the allocation of interest to real property under construction.”

(d) **CONFORMING AMENDMENT.**—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended—

(1) by striking out “construction period interest and taxes” and inserting in lieu thereof “real property construction period interest and taxes”, and

(2) by striking out the caption thereof and inserting in lieu thereof:

“(1) **REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.**—”.

26 USC 189 note.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) **CERTAIN PLANNED CONSTRUCTION.**—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(3)(B) of the Internal Revenue Code of 1954 or which is a hospital or nursing home if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982, and as to which approval from a governmental unit has been requested in writing, and

(B) such construction commences before January 1, 1984, and shall not apply to the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities.

## PART II—LEASING

### SEC. 208. LIMITATIONS AND ADDITIONAL REQUIREMENTS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.

(a) **LIMITATIONS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.**—

95 Stat. 204.  
*Post*, p. 445.

(1) **IN GENERAL.**—Section 168 (relating to the accelerated cost recovery system) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:



“(i) LIMITATIONS RELATING TO LEASES OF QUALIFIED LEASED PROPERTY.—For purposes of this subtitle, in the case of safe harbor lease property, the following limitations shall apply:

“(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

“(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all safe harbor lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to safe harbor lease items) by more than 50 percent of such liability.

“(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

“(i) may be carried over to any subsequent taxable year, and

“(ii) shall be treated as a deduction or credit allocable to safe harbor lease property in such subsequent taxable year.

“(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

“(i) of any deduction or credit allocable to safe harbor lease property for any taxable year to which subparagraph (A) applies, and

“(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

“(D) LIABILITY FOR TAX AND SAFE HARBOR LEASE ITEMS DEFINED.—For purposes of this paragraph—

“(i) LIABILITY FOR TAX DEFINED.—Except as provided in this subparagraph, the term ‘liability for tax’ means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

“(ii) SAFE HARBOR LEASE ITEMS DEFINED.—The term ‘safe harbor lease items’ means any of the following items which are properly allocable to safe harbor lease property with respect to which the taxpayer is the lessor:

“(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

“(II) Any rental income received by the taxpayer from any lessee of such property.

“(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

“(iii) CERTAIN TAXES NOT INCLUDED.—The term ‘tax imposed by this chapter’ shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

“(2) METHOD OF COST RECOVERY.—The deduction allowable under subsection (a) with respect to any safe harbor lease property shall be determined by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction (with a half-year convention in the first recovery year and without regard to salvage value) and a recovery period determined in accordance with the following table:

“In the case of:		The recovery period is:
3-year property .....		5 years.
5-year property .....		8 years.
10-year property .....		15 years.

“(3) INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any safe harbor lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

“(4) NO CARRYBACKS OF CREDIT OR NET OPERATING LOSS ALLOCABLE TO ELECTED QUALIFIED LEASED PROPERTY.—

“(A) CREDIT CARRYBACKS.—In determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter which may be carried back to any preceding taxable year—

“(i) the liability for tax for the taxable year from which any such credit is to be carried shall be reduced first by any credit not properly allocable to safe harbor lease property, and

“(ii) no credit which is properly allocable to safe harbor lease property shall be taken into account in determining the amount of any credit which may be carried back.

26 USC 172.

“(B) NET OPERATING LOSS CARRYBACKS.—The net operating loss carryback provided in section 172(b) for any taxable year shall be reduced by that portion of the amount of such carryback which is properly allocable to the items described in paragraph (1)(D)(ii) with respect to all safe harbor lease property with respect to which the taxpayer is the lessor.

“(5) LIMITATION ON DEDUCTION FOR INTEREST PAID BY THE LESSOR TO THE LESSEE.—In the case of interest described in paragraph (1)(D)(ii)(III), the amount allowable as a deduction for any taxable year with respect to such interest shall not exceed the amount which would have been computed if the rate of interest under the agreement were equal to the rate of interest in effect under section 6621 at the time the agreement was entered into.

“(6) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

“(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any safe harbor lease property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

“(B) COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

“(7) TRANSITIONAL RULE FOR APPLICATION OF PARAGRAPH (1) TO CERTAIN TRANSACTIONS.—In the case of any deduction or credit with respect to—

“(A) any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982), or

“(B) any other safe harbor lease property placed in service during 1982 and to which paragraph (1) does not apply, paragraph (1) shall not operate to disallow any such deduction or credit for the taxable year for which such deduction or credit would otherwise be allowable but deductions and credits with respect to such property shall be taken into account first in determining whether any deduction or credit is allowable under paragraph (1) with respect to any other safe harbor lease property.

“(8) SAFE HARBOR LEASE PROPERTY.—For purposes of this section, the term ‘safe harbor lease property’ means qualified leased property with respect to which an election under section 168(f)(8) is in effect.”

(2) CONFORMING AMENDMENT.—

(A) Subparagraph (A) of section 168(f)(8) (relating to special rules for leases) is amended by inserting “except as provided in subsection (i),” before “for purposes of this subtitle”.

95 Stat. 204.

(B) Subparagraph (D) of section 47(a)(5) (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new sentence: “If, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated (for purposes of this subparagraph) as not having been used to reduce tax liability.”

26 USC 47.

(b) ADDITIONAL REQUIREMENTS TO QUALIFY AS LEASE FOR PURPOSES OF ACCELERATED COST RECOVERY.—

(1) RELATED PERSONS MAY NOT QUALIFY AS LESSORS.—Subclause (I) of section 168(f)(8)(B)(i) (relating to qualified lessors) is amended by inserting “which is not a related person with respect to the lessee” before the comma at the end thereof.

(2) MAXIMUM LEASE TERM REDUCED.—Clause (iii) of section 168(f)(8)(B) (relating to term of lease) is amended to read as follows:

“(iii) the term of the lease (including any extensions) does not exceed the greater of—

“(I) 120 percent of the present class life of the property, or

“(II) the period equal to the recovery period determined with respect to such property under subsection (i)(2).”

(3) DEFINITION OF QUALIFIED LEASED PROPERTY.—Subparagraph (D) of section 168(f)(8) (defining qualified leased property) is amended to read as follows:

“(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of this section—

“(i) IN GENERAL.—The term ‘qualified leased property’ means recovery property—

“(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

“(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

“(ii) ONLY 45 PERCENT OF THE LESSEE’S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all safe harbor lease property (determined without regard to this clause)—

“(I) which is placed in service during any calendar year, and

“(II) with respect to which the taxpayer is a lessee, shall not exceed an amount equal to the 45 percent of the cost basis of the taxpayer’s qualified base property placed in service during such calendar year.

“(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as qualified leased property under clause (ii) shall be allocated to safe harbor lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

“(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS QUALIFIED LEASED PROPERTY.—The term ‘qualified leased property’ shall not include recovery property—

“(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

“(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

“(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

“(IV) with respect to which the lessee of the property (other than property described in clause (v)) under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

“(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

“(v) QUALIFIED MASS COMMUTING VEHICLES INCLUDED.—The term ‘qualified leased property’ includes recovery property which is a qualified mass commuting vehicle (as defined in section 103(b)(9)) which is financed in whole or in part by obligations the interest on which is excludable under section 103(a).

“(vi) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term ‘qualified base property’ means

26 USC 48.

*Ante*, p. 423.

property placed in service during any calendar year which—

“(I) is new section 38 property of the taxpayer,

“(II) is safe harbor lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

“(III) is designated leased property (other than property described in subclause (I) or (II)) with respect which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

“(vii) **DEFINITION OF DESIGNATED LEASED PROPERTY.**—For purposes of this subparagraph, the term ‘designated leased property’ means property—

“(I) which is new section 38 property,

“(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

“(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period used in subsection (i)(2)) of such property, and

“(IV) which the lessee designates on his return as designated leased property.

“(viii) **DEFINITION; SPECIAL RULE.**—For purposes of this subparagraph—

“(I) **NEW SECTION 38 PROPERTY.**—The term ‘new section 38 property’ has the meaning given such term by section 48(b).

“(II) **PROPERTY PLACED IN SERVICE.**—For purposes of this title (other than clause (i)), any property described in clause (i) to which subparagraph (A) applies shall be deemed originally placed in service not earlier than the date such property is used under the lease.”

(4) **DEFINITIONS AND SPECIAL RULES.**—Paragraph (8) of section 168(f) (relating to special rules for leases) is amended by redesignating subparagraph (H) as subparagraph (K) and by inserting after subparagraph (G) the following new subparagraphs:

95 Stat. 204.

“(H) **DEFINITIONS.**—For purposes of this paragraph—

“(i) **RELATED PERSON.**—A person is related to another person if both persons are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

“(ii) **NONQUALIFIED TAX-EXEMPT ORGANIZATION.**—

“(I) **IN GENERAL.**—The term ‘nonqualified tax-exempt organization’ means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which

26 USC 521.

was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

“(II) SPECIAL RULE FOR FARMERS’ COOPERATIVES.—The term ‘nonqualified tax-exempt organization’ shall not include any farmers’ cooperative organization described in section 521 whether or not exempt from taxation under section 521.

“(III) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to tax under section 511.

“(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), clause (ii) of subparagraph (D) shall not apply to any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982).

“(ii) SPECIAL RULES.—For purposes of subparagraph (D)(ii)—

“(I) DETERMINATION OF QUALIFIED BASE PROPERTY.—The cost basis of property described in clause (i) (and other property placed in service during 1982 to which subparagraph (D)(ii) does not apply) shall be taken into account in determining the qualified base property of the taxpayer for the taxable year in which such property was placed in service.

“(II) REDUCTION IN QUALIFIED LEASED PROPERTY.—The cost basis of property which may be treated as qualified leased property under subparagraph (D)(ii) for the taxable year in which such property was placed in service (determined without regard to this subparagraph) shall be reduced by the cost basis of the property taken into account under subclause (I).

“(J) COORDINATION WITH AT RISK RULES.—

“(i) IN GENERAL.—For purposes of section 465, in the case of property placed in service after the date of the enactment of this subparagraph, if—

“(I) an activity involves the leasing of section 1245 property which is safe harbor lease property, and

“(II) the lessee of such property (as determined under this paragraph) would, but for this paragraph, be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under section 465 without regard to this paragraph).

“(ii) SUBPARAGRAPH NOT TO APPLY TO CERTAIN SERVICE CORPORATIONS.—Clause (i) shall not apply to any lessor which is a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

“(iii) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE BEFORE DATE OF ENACTMENT OF THIS SUBPARAGRAPH.—This subparagraph shall apply to property placed in service before the date of enactment of this subparagraph if the provisions of section 465 did not apply to the lessor before such date but become applicable to such lessor after such date.”

(c) CERTAIN LEASES BEFORE OCTOBER 20, 1981, TREATED AS QUALIFIED LEASES.—Nothing in paragraph (8) of section 168(f) of the Internal Revenue Code of 1954, or in any regulations prescribed thereunder, shall be treated as making such paragraph inapplicable to any agreement entered into before October 20, 1981, solely because under such agreement 1 party to such agreement is entitled to the credit allowable under section 38 of such Code with respect to property and another party to such agreement is entitled to the deduction allowable under section 168 of such Code with respect to such property. Section 168(f)(8)(B)(ii) of such Code shall not apply to the party entitled to such credit.

26 USC 168 note.

*Post*, p. 442.

(d) EFFECTIVE DATES.—

26 USC 168 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsections (a) and (b) of this section shall apply to agreements entered into after July 1, 1982, or to property placed in service after July 1, 1982.

(2) TRANSITIONAL RULE FOR CERTAIN SAFE HARBOR LEASE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall not apply to transitional safe harbor lease property.

(B) SPECIAL RULE FOR CERTAIN PROVISIONS.—Subparagraph (A) shall not apply with respect to the provisions of paragraph (6) of section 168(i) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)), to the provisions of section 168(f)(8)(J) of such Code (as added by subsection (b)(4)), or to the amendment made by subsection (b)(1).

*Ante*, p. 432.

*Ante*, p. 437.

(3) TRANSITIONAL SAFE HARBOR LEASE PROPERTY.—For purposes of this subsection, the term “transitional safe harbor lease property” means property described in any of the following subparagraphs:

(A) IN GENERAL.—Property is described in this subparagraph if such property is placed in service before January 1, 1983, if—

(i) with respect to such property a binding contract to acquire or to construct such property was entered into by the lessee after December 31, 1980, and before July 2, 1982, or

(ii) such property was acquired by the lessee, or construction of such property was commenced by or for the lessee, after December 31, 1980, and before July 2, 1982.

*Post*, p. 442.

(B) CERTAIN QUALIFIED LESSEES.—Property is described in this subparagraph if such property is placed in service before July 1, 1982, and with respect to which—

(i) an agreement to which section 168(f)(8)(A) of the Internal Revenue Code of 1954 applies was entered into before August 15, 1982, and

(ii) the lessee under such agreement is a qualified lessee (within the meaning of paragraph (6)).

(C) MANUFACTURERS OF CERTAIN PRODUCTS.—Property is described in this subparagraph if such property—

(i) is used to produce a class of products (within the meaning of paragraph (6)(B)) in an industry described in paragraph (6)(A)(ii)(II) (determined without regard to the phrase “other than the taxpayer”), and

(ii) would be described in subparagraph (A) if “October 1” were substituted for “January 1”.

(D) CERTAIN AIRCRAFT.—Property is described in this subparagraph if such property—

(i) is a commercial passenger aircraft (other than a helicopter), and

(ii) would be described in subparagraph (A) if “January 1, 1984” were substituted for “January 1, 1983”.

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), subparagraph (A)(ii) shall be applied by substituting “June 25, 1981” for “December 31, 1980” and by substituting “February 20, 1982” for “July 2, 1982” and construction of the aircraft shall be treated as having been begun during the period referred to in subparagraph (A)(ii) if during such period construction or reconstruction of a subassembly was commenced, or the stub wing join occurred.

(E) TURBINES AND BOILERS.—Property is described in this subparagraph if such property—

(i) is a turbine or boiler of a cooperative organization described in section 1381(a), and

(ii) would be property described in subparagraph (A) if “January 1” were substituted for “January 1”.

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

(F) PROPERTY USED IN THE PRODUCTION OF STEEL.—Property is described in this subparagraph if such property—

(i) is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture or production of steel, and

(ii) would be described in subparagraph (A) if “January 1, 1984” were substituted for “January 1, 1983”.

(4) SPECIAL RULE FOR ANTI-AVOIDANCE PROVISIONS.—The provisions of paragraph (6) of section 168(i) of such Code (as added by subsection (a)(1)), and the amendment made by subsection (b)(1), shall apply to leases entered into after February 19, 1982, in taxable years ending after such date.

(5) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—The amendments made by this section (other than section 168(i) (1)

26 USC 1381.

*Ante*, p. 432.



and (7) of such Code, as added by subsection (a)(1)) and section 209 shall not apply to qualified leased property described in section 168(f)(8)(D)(V) of such Code (as in effect after the amendments made by this section) which—

*Ante*, p. 435.

(A) is placed in service before January 1, 1988, or

(B) is placed in service after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) QUALIFIED LESSEE DEFINED.—

(A) IN GENERAL.—The term “qualified lessee” means a taxpayer which is a lessee of an agreement to which section 168(f)(8)(A) of such Code applies and which—

*Post*, p. 442.

(i) had net operating losses in each of the three most recent taxable years ending before July 1, 1982, and had an aggregate net operating loss for the five most recent taxable years ending before July 1, 1982, and

(ii) which uses the property subject to the agreement to manufacture and produce within the United States a class of products in an industry with respect to which—

(I) the taxpayer produced less than 5 percent of the total number of units (or value) of such products during the period covering the three most recent taxable years of the taxpayer ending before July 1, 1982, and

(II) four or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured 85 percent or more of the total number of all units (or value) within such class of products manufactured and produced in the United States during such period.

26 USC 1504.

(B) CLASS OF PRODUCTS.—For purposes of subparagraph (A)—

(i) the term “class of products” means any of the categories designated and numbered as a “class of products” in the 1977 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) information—

(I) compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the Census of Manufacturers, regarding the number of units (or value) of a class of products manufactured and produced in the United States during any period, or

(II) if information under subclause (I) is not available, so compiled or published with respect to the number of such units shipped or sold by such manufacturers during any period, shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such period.

26 USC 6655.

(6) UNDERPAYMENTS OF TAX FOR 1982.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before October 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by chapter 1 of such Code, to the extent that such underpayment was created or increased by any provision of this section.

**SEC. 209. REPEAL OF LEASING; SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.**

95 Stat. 204.

(a) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—Paragraph (8) of section 168(f) (relating to special rules for leasing) is amended to read as follows:

“(8) SPECIAL RULES FOR FINANCE LEASES.—

“(A) IN GENERAL.—For purposes of this title, except as provided in subsection (i), in the case of any agreement with respect to any finance lease property, the fact that—

“(i) a lessee has the right to purchase the property at a fixed price which is not less than 10 percent of the original cost of the property to the lessor, or

“(ii) the property is of a type not readily usable by any person other than the lessee, shall not be taken into account in determining whether such agreement is a lease.

“(B) FINANCE LEASE PROPERTY DEFINED.—For purposes of this section—

“(i) IN GENERAL.—The term ‘finance lease property’ means recovery property which is subject to an agreement which meets the requirements of subparagraph (C) and—

“(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

“(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

“(ii) ONLY 40 PERCENT OF THE LESSEE’S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all finance lease property (determined without regard to this clause)—

“(I) which is placed in service during any calendar year beginning before January 1, 1986, and

“(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to 40 percent of the cost basis of the taxpayer’s qualified base property placed in service during such calendar year.

“(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as finance lease property under clause (ii) shall be allocated to finance lease property for such calendar year (determined without regard to clause (ii))

in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

“(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS FINANCE LEASE PROPERTY.—The term ‘finance lease property’ shall not include recovery property—

“(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

26 USC 48.

“(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

“(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

*Ante*, p. 423.

“(IV) with respect to which the lessee of the property under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

“(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

“(v) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term ‘qualified base property’ means property placed in service during any calendar year which—

“(I) is new section 38 property of the taxpayer,

“(II) is finance lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

“(III) is designated leased property (other than property described in subclause (I) or (II)) with respect to which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor’s qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

“(vi) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term ‘designated leased property’ means property—

“(I) which is new section 38 property,

“(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

“(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period under subsection (a)) of such property, and

“(IV) which the lessee designates on his return as designated leased property.

“(vii) DEFINITION; SPECIAL RULES.—For purposes of this subparagraph—

26 USC 2032A.

“(I) NEW SECTION 38 PROPERTY DEFINED.—The term ‘new section 38 property’ has the meaning given such term by section 48(b).

“(II) LESSEE LIMITATION NOT TO APPLY TO CERTAIN FARM PROPERTY.—Clause (ii) shall not apply to any property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the calendar year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose does not exceed \$150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982).

“(III) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i), any finance lease property shall be deemed originally placed in service not earlier than the date such property is used under the lease.

“(C) AGREEMENTS MUST MEET CERTAIN REQUIREMENTS.—The requirements of this subparagraph are met with respect to any agreement if—

“(i) LESSOR REQUIREMENT.—Any lessor under the agreement must be—

“(I) a corporation (other than an electing small business corporation within the meaning of section 1371(b) or a personal holding company within the meaning of section 542(a)),

“(II) a partnership all of the partners of which are corporations described in subclause (I), or

“(III) a grantor trust with respect to which the grantor and all the beneficiaries of the trust are described in subclause (I) or (II).

“(ii) CHARACTERIZATION OF AGREEMENT.—The parties to the agreement characterize such agreement as a lease.

“(iii) AGREEMENT CONTAINS CERTAIN PROVISIONS.—The agreement contains the provision described in clause (i) or (ii) of subparagraph (A), or both.

“(iv) AGREEMENT OTHERWISE LEASE, ETC.—For purposes of this title (determined without regard to the provisions described in clause (iii)), the agreement would be treated as a lease and the lessor under the agreement would be treated as the owner of the property.

“(D) PARAGRAPH NOT TO APPLY TO AGREEMENTS BETWEEN RELATED PERSONS.—This paragraph shall not apply to any agreement if the lessor and lessee are both persons who are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

“(E) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

“(i) IN GENERAL.—The term ‘nonqualified tax-exempt organization’ means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from

taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

“(ii) **SPECIAL RULE FOR FARMERS’ COOPERATIVES.**—The term ‘nonqualified tax-exempt organization’ shall not include any farmers’ cooperative organization which is described in section 521 whether or not exempt from taxation under section 521. 26 USC 521.

“(iii) **SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.**—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to taxation under section 511.

“(F) **CROSS REFERENCE.**—

“For special recapture in case where lessee acquires financed recovery property, see section 1245.”

(b) **SPECIAL LIMITATIONS ON FINANCE LEASE PROPERTY.**—Subsection (i) of section 168 (relating to limitations and additional requirements with respect to leases) is amended to read as follows: *Ante*, p. 432.

“(i) **LIMITATIONS RELATING TO LEASES OF FINANCE LEASE PROPERTY.**—For purposes of this subtitle, in the case of finance lease property, the following limitations shall apply:

“(1) **LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.**—

“(A) **IN GENERAL.**—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all finance lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to finance lease items) by more than 50 percent of such liability.

“(B) **CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.**—Any amount not allowable as a deduction or credit under subparagraph (A)—

“(i) may be carried over to any subsequent taxable year, and

“(ii) shall be treated as a deduction or credit allocable to finance lease property in such subsequent taxable year.

“(C) **ALLOCATION AMONG DEDUCTIONS AND CREDITS.**—The Secretary shall prescribe regulations for determining the amount—

“(i) of any deduction or credit allocable to finance lease property for any taxable year to which subparagraph (A) applies, and

“(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

“(D) **LIABILITY FOR TAX AND FINANCE LEASE ITEMS DEFINED.**—For purposes of this paragraph—

“(i) **LIABILITY FOR TAX DEFINED.**—Except as provided in this subparagraph, the term ‘liability for tax’ means the tax imposed by this chapter, reduced by the sum of

the credits allowable under subpart A of part IV of subchapter A of this chapter.

“(ii) **FINANCE LEASE ITEMS DEFINED.**—The term ‘finance lease items’ means any of the following items which are properly allocable to finance lease property with respect to which the taxpayer is the lessor:

“(I) Any deduction or credit allowable under this chapter.

“(II) Any rental income received by the taxpayer from any lessee of such property.

“(iii) **CERTAIN TAXES NOT INCLUDED.**—The term ‘tax imposed by this chapter’ shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

“(E) **CERTAIN SAFE HARBOR LEASE PROPERTY TAKEN INTO ACCOUNT.**—Under regulations prescribed by the Secretary, deductions and credits and safe harbor lease items which are allocable to safe harbor lease property to which this paragraph (as in effect for taxable years beginning in 1983) applies shall be taken into account for purposes of applying this paragraph.

“(2) **INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.**—In the case of any credit which would otherwise be allowable under section 38 with respect to any finance lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

“(3) **COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.**—

“(A) **IN GENERAL.**—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any financed recovery property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

“(B) **COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.**—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

“(4) **LIMITATIONS.**—

“(A) **TERMINATION OF CERTAIN PROVISIONS.**—

“(i) **PARAGRAPH (1).**—Paragraph (1) shall not apply to property placed in service after September 30, 1985, in taxable years beginning after such date.

“(ii) **PARAGRAPH (2).**—Paragraph (2) shall not apply to property placed in service after September 30, 1985.

“(B) **CERTAIN FARM PROPERTY.**—This subsection shall not apply to property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose, does not exceed \$150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982).”

(c) **DEFINITION OF NEW SECTION 38 PROPERTY.**—Subsection (b) of section 48 (defining new section 38 property) is amended by adding at the end thereof the following new sentence: “For purposes of determining whether section 38 property subject to a lease is new section 38 property, such property shall be treated as originally placed in service not earlier than the date such property is used under the lease but only if such property is leased within 3 months after such property is placed in service.” 26 USC 48.

(d) **EFFECTIVE DATES.**— 26 USC 168 note.

(1) **SUBSECTION (a).**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply to agreements entered into after December 31, 1983.

(B) **SPECIAL RULE FOR FARM PROPERTY AGGREGATING \$150,000 OR LESS.**—

(i) **IN GENERAL.**—The amendments made by subsection (a) shall also apply to any agreement entered into after July 1, 1982, and before January 1, 1984, if the property subject to such agreement is section 38 property which is used for farming purposes (within the meaning of section 2032A(e)(5)).

(ii) **\$150,000 LIMITATION.**—The provisions of clause (i) shall not apply to any agreement if the sum of—

(I) the cost basis of the property subject to the agreement, plus

(II) the cost basis of any property subject to an agreement to which this subparagraph previously applied, which was entered into during the same calendar year, and with respect to which the lessee was the lessee of the agreement described in subclause (I) (or any related person within the meaning of section 168(e)(4)(D)),

exceeds \$150,000. For purposes of subclause (II), in the case of an individual, there shall not be taken into account any agreement of any individual who is a related person involving property which is used in a trade or business of farming of such related person which is separate from the trade or business of farming of the lessee described in subclause (II).

(2) **SPECIAL RULE FOR DEFINITION OF NEW SECTION 38 PROPERTY.**—The amendment made by subsection (c) shall apply to property placed in service after December 31, 1983.

#### SEC. 210. MOTOR VEHICLE OPERATING LEASES.

26 USC 168 note.

(a) **IN GENERAL.**—In the case of any qualified motor vehicle agreement, the fact that such agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

(b) **DEFINITIONS.**—For purposes of this section—

(1) **QUALIFIED MOTOR VEHICLE AGREEMENT.**—The term “qualified motor vehicle agreement” means any agreement with respect to a motor vehicle (including a trailer)—

(A) which was entered into before—

(i) the enactment of any law, or

(ii) the publication by the Secretary of the Treasury or his delegate of any regulation,

which provides that any agreement with a terminal rental adjustment clause is not a lease,

(B) with respect to which the lessor under the agreement—

(i) is personally liable for the repayment of, or

(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement, and

(C) with respect to which the lessee under the agreement uses the property subject to the agreement in a trade or business or for the production of income.

(2) **TERMINAL RENTAL ADJUSTMENT CLAUSE.**—The term “terminal rental adjustment clause” means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

### PART III—FOREIGN TAX

#### SEC. 211. FOREIGN TAX CREDIT FOR TAXES ON OIL AND GAS INCOME.

(a) **AMENDMENT OF SECTION 907(c)(4) TO RECAPTURE FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.**—Paragraph (4) of section 907(c) (relating to certain losses) is amended to read as follows:

“(4) **RECAPTURE OF FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.**—

“(A) **IN GENERAL.**—That portion of the income of the taxpayer for the taxable year which (but for this paragraph) would be treated as foreign oil and gas extraction income shall be treated as income (from sources without the United States) which is not foreign oil and gas extraction income to the extent of the excess of—

“(i) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, over

“(ii) so much of such aggregate amount as was recharacterized under this subparagraph for preceding taxable years beginning after December 31, 1982.

“(B) **FOREIGN OIL EXTRACTION LOSS DEFINED.**—

“(i) **IN GENERAL.**—For purposes of this paragraph, the term ‘foreign oil extraction loss’ means the amount by which—

“(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil and gas extraction income for such year, is exceeded by



“(II) the sum of the deductions properly apportioned or allocated thereto.

“(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

26 USC 172.

“(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

“(I) any foreign expropriation loss (as defined in section 172(h)) for the taxable year, or

“(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.”

(b) EXTRACTION INCOME REMOVED FROM FOREIGN OIL RELATED INCOME.—Paragraph (2) of section 907(c) (defining foreign oil related income) is amended to read as follows:

26 USC 907.

“(2) FOREIGN OIL RELATED INCOME.—The term ‘foreign oil related income’ means the taxable income derived from sources outside the United States and its possessions from—

“(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

“(B) the transportation of such minerals or primary products,

“(C) the distribution or sale of such minerals or primary products,

“(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

“(E) the performance of any other related service.”

(c) REPEAL OF SEPARATE APPLICATION OF SECTION 904 TO FOREIGN OIL RELATED INCOME; AMOUNTS TREATED AS FOREIGN TAXES ON SUCH INCOME.—

(1) IN GENERAL.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

“(b) FOREIGN TAXES ON FOREIGN OIL RELATED INCOME.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term ‘income, war profits, and excess profits taxes’ shall not include any amount paid or accrued after December 31, 1982, to the extent that the Secretary determines that the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither foreign oil related income nor foreign oil and gas extraction income. In computing the amount not treated as tax under this subsection, such amount shall be treated as a deduction under the foreign law.”

(2) REPEAL OF SEPARATE TREATMENT OF FOREIGN OIL RELATED LOSS.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

26 USC 904.

**(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS; TRANSITIONAL RULES.—**

26 USC 907.

(1) **TRANSITIONAL RULES.**—Subsection (e) of section 907 (relating to transitional rules) is amended to read as follows:

**“(e) TRANSITIONAL RULES.—**

“(1) **CREDITS ARISING IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1983.**—The amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this paragraph referred to as the ‘excess credit year’) which under section 904(c) or 907(f) may be deemed paid or accrued in a taxable year beginning after December 31, 1982, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.

*Ante*, p. 324.

“(2) **CARRYBACK OF CREDITS ARISING IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982.**—The amount of the taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be deemed paid or accrued under section 904(c) or 907(f) in a taxable year beginning before January 1, 1983, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.”

**(2) REPEAL OF 2-PERCENT LIMITATION ON CARRYBACK AND CARRYOVER OF DISALLOWED EXTRACTION TAXES.—**

(A) **IN GENERAL.**—Paragraph (1) of section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(i) by striking out “so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year” and inserting in lieu thereof “such excess”,

(ii) by striking out the last sentence.

**(B) TECHNICAL AMENDMENTS.—**

(i) Subparagraph (B) of section 907(f)(2) is amended—

(I) by striking out “on taxes paid or accrued with respect to foreign oil related income”, and

(II) by striking out “with respect to such income” in clause (i).

(ii) Subparagraph (A) of section 907(f)(3) is amended by striking out “with respect to oil-related income”.

(iii) Subparagraph (B) of section 907(f)(3) is amended by striking out “oil-related”.

26 USC 907 note.

**(e) EFFECTIVE DATE.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) **RETENTION OF OLD SECTIONS 907 (b) AND 904 (f) (4) WHERE TAXPAYER HAD FOREIGN LOSS FROM AN ACTIVITY NOT RELATED TO OIL AND GAS.**—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a foreign loss attributable to activities not taken into account in determining foreign oil related income (as defined in old section 907(c)(2)), such loss shall not be recaptured from

foreign oil related income more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982. For purposes of the preceding sentence, an "old" section is such section as in effect on the day before the date of the enactment of this Act.

**SEC. 212. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS.**

(a) **FOREIGN OIL RELATED INCOME ADDED TO CURRENTLY TAXED AMOUNTS.**—Subsection (a) of section 954 (defining foreign base company income) is amended by adding at the end thereof the following new paragraph:

26 USC 954.

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) **SPECIAL RULES.**—

(1) **ALLOWANCE OF DEDUCTIONS AGAINST FOREIGN BASE COMPANY OIL RELATED INCOME.**—Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income".

(2) **PREEMPTION OF FOREIGN BASE COMPANY OIL RELATED INCOME.**—Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) **FOREIGN BASE COMPANY OIL RELATED INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.**—Income of a corporation which is foreign base company oil related income shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) **DEFINITION OF FOREIGN BASE COMPANY OIL RELATED INCOME.**—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) **FOREIGN BASE COMPANY OIL RELATED INCOME.**—For purposes of this section—

"(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the term 'foreign base company oil related income' means foreign oil related income (within the meaning of section 907(c)(2)) other than income derived from a source within a foreign country in connection with—

"(A) oil or gas which was extracted from an oil or gas well located in such foreign country, or

"(B) oil, gas, or a primary product of oil or gas which is sold by the foreign corporation or a related person for use or consumption within such country or is loaded in such country on a vessel or aircraft as fuel for such vessel or aircraft.

"(2) **PARAGRAPH (1) APPLIES ONLY WHERE CORPORATION HAS PRODUCED 1,000 BARRELS PER DAY OR MORE.**—

"(A) **IN GENERAL.**—The term 'foreign base company oil related income' shall not include any income of a foreign corporation if such corporation is not a large oil producer for the taxable year.

"(B) **LARGE OIL PRODUCER.**—For purposes of subparagraph (A), the term 'large oil producer' means any corporation if, for the taxable year or for the preceding taxable year, the average daily production of foreign crude oil and natural

gas of the related group which includes such corporation equaled or exceeded 1,000 barrels.

“(C) RELATED GROUP.—The term ‘related group’ means a group consisting of the foreign corporation and any other person who is a related person with respect to such corporation.

“(D) AVERAGE DAILY PRODUCTION OF FOREIGN CRUDE OIL AND NATURAL GAS.—For purposes of this paragraph, the average daily production of foreign crude oil or natural gas of any related group for any taxable year (and the conversion of cubic feet of natural gas into barrels) shall be determined under rules similar to the rules of section 613A except that only crude oil or natural gas from a well located outside the United States shall be taken into account.”

26 USC 954.

(d) EXCEPTION FROM FOREIGN BASE COMPANY INCOME FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5).”

(e) CONFORMING AMENDMENTS.—Subsection (a) of section 954 is amended by striking out “and” at the end of paragraph (3), and by striking out the period at the end of paragraph (4) and inserting in lieu thereof, and”.

26 USC 954 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end.

**SEC. 213. POSSESSION TAX CREDIT; INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.**

**(a) POSSESSION TAX CREDIT.—**

26 USC 936.

(1) ACTIVE TRADE OR BUSINESS REQUIREMENT.—Paragraph (2) of section 936(a) (relating to conditions which must be satisfied) is amended—

(A) by striking out “50 percent” in subparagraph (B) and inserting in lieu thereof “65 percent”, and

(B) by adding at the end thereof the following new subparagraph:

“(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for “65 percent”:

“For taxable years beginning in calendar year:

The percentage tax is:

1983 .....	55
1984 .....	60”.

(2) INCOME ATTRIBUTABLE TO CERTAIN INTANGIBLE PROPERTY.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

“(h) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME.—

“(1) IN GENERAL.—

“(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of

such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

“(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—Any intangible property income of a corporation electing the application of this section which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

“(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

“(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

“(i) who is not a United States person, or

“(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

“(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

“(i) shall be treated as income from sources within the United States, and

“(ii) shall not be taken into account under subsection (a)(2).

“(3) INTANGIBLE PROPERTY INCOME.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘intangible property income’ means the gross income of a corporation attributable to any intangible property other than intangible property which has been licensed to such corporation since prior to 1948 and is in use by such corporation on the date of the enactment of this subparagraph.

“(B) INTANGIBLE PROPERTY.—The term ‘intangible property’ means any—

“(i) patent, invention, formula, process, design, pattern, or know-how;

“(ii) copyright, literary, musical, or artistic composition;

“(iii) trademark, trade name, or brand name;

“(iv) franchise, license, or contract;

“(v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or

“(vi) any similar item,

which has substantial value independent of the services of any individual.

“(C) EXCLUSION OF REASONABLE PROFIT.—The term ‘intangible property income’ shall not include any portion of the income from the sale, exchange or other disposition of any product, or from the rendering of services, by a corporation electing the application of this section which is determined by the Secretary to be a reasonable profit on the direct and

indirect costs incurred by such electing corporation which are attributable to such income.

**“(D) RELATED PERSON.—**

**“(i) IN GENERAL.—**A person (hereinafter referred to as the ‘related person’) is related to any person if—

26 USC 267.

**“(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or**

**“(II) the related person and such person are members of the same controlled group of corporations.**

**“(ii) SPECIAL RULES.—**For purposes of clause (i)—

**“(I) section 267(b) and section 707(b)(1) shall be applied by substituting ‘10 percent’ for ‘50 percent’, and**

**“(II) section 267(b)(3) shall be applied without regard to whether a person was a personal holding company or a foreign personal holding company.**

**“(E) CONTROLLED GROUP OF CORPORATIONS.—**The term ‘controlled group of corporations’ has the meaning given to such term by section 1563(a), except that—

**“(i) ‘more than 10 percent’ shall be substituted for ‘at least 80 percent’ and ‘more than 50 percent’ each place either appears in section 1563(a), and**

**“(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.**

**“(4) DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENTS.—**

**“(A) IN GENERAL.—**If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

**“(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A)—**

**“(I) which was not derived from sources within a possession, and**

**“(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),**

**“(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period—**

**“(I) which was not derived from the active conduct of a trade or business within a possession, and**

**“(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B),**

**or**

**“(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount**

of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

“(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

“(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLIGENCE.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

“(5) ELECTION OUT.—

“(A) IN GENERAL.—The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election pursuant to subparagraph (F) is in effect to use one of the methods specified in subparagraph (C).

“(B) ELIGIBILITY.—

“(i) REQUIREMENT OF SIGNIFICANT BUSINESS PRESENCE.—An election may be made to use one of the methods specified in subparagraph (C) with respect to a product or type of service only if an electing corporation has a significant business presence in a possession with respect to such product or type of service. An election may remain in effect with respect to such product or type of service for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession with respect to such product or type of service in such subsequent taxable year. If an election is not in effect for a taxable year because of the preceding sentence, the electing corporation shall be deemed to have revoked the election on the first day of such taxable year.

“(ii) DEFINITION.—For purposes of this subparagraph, an electing corporation has a ‘significant business presence’ in a possession for a taxable year with respect to a product or type of service if:

“(I) the total production costs (other than direct material costs and other than interest excluded by regulations prescribed by the Secretary) incurred by the electing corporation in the possession in producing units of that product sold or otherwise disposed of during the taxable year by the affiliated group to persons who are not members of the affiliated group are not less than 25 percent of the difference between (a) the gross receipts from sales or other dispositions during the taxable year by the affiliated group to persons who are not members of the affiliated group of such units of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the direct material costs of the purchase of materials for such

units of that product by all members of the affiliated group from persons who are not members of the affiliated group; or

“(II) no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced during the taxable year in whole or in part by the electing corporation or for the type of service rendered by the electing corporation during the taxable year, is incurred by the electing corporation and is compensation for services performed in the possession; or

“(III) with respect to purchases and sales by an electing corporation of all goods not produced in whole or in part by any member of the affiliated group and sold by the electing corporation to persons other than members of the affiliated group, no less than 65 percent of the total direct labor costs of the affiliated group in connection with all purchases and sales of such goods sold during the taxable year by such electing corporation is incurred by such electing corporation and is compensation for services performed in the possession.

Notwithstanding satisfaction of one of the foregoing tests, an electing corporation shall not be treated as having a significant business presence in a possession with respect to a product produced in whole or in part by the electing corporation in the possession, for purposes of an election to use the method specified in subparagraph (C)(ii), unless such product is manufactured or produced in the possession by the electing corporation within the meaning of subsection (d)(1)(A) of section 954.

26 USC 954.

“(iii) SPECIAL RULES.—

“(I) An electing corporation which produces a product or renders a type of service in a possession on the date of the enactment of this clause is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986.

“(II) For purposes of this subparagraph, the costs incurred by an electing corporation or any other member of the affiliated group in connection with contract manufacturing by a person other than a member of the affiliated group, or in connection with a similar arrangement thereto, shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs incurred by the electing corporation in the possession or as direct material costs or as compensation for services performed in the possession, except to the extent as may be otherwise provided in regulations prescribed by the Secretary.

“(iv) REGULATIONS.—The Secretary may prescribe regulations setting forth:

“(I) an appropriate transitional (but not in excess of three taxable years) significant business pres-



ence test for commencement in a possession of operations with respect to products or types of service after the date of the enactment of this clause and not described in subparagraph (B)(iii)(I),

“(II) a significant business presence test for other appropriate cases, consistent with the tests specified in subparagraph (B)(ii),

“(III) rules for the definition of a product or type of service, and

“(IV) rules for treating components produced in whole or in part by a related person as materials, and the costs (including direct labor costs) related thereto as a cost of materials, where there is an independent resale price for such components or where otherwise consistent with the intent of the substantial business presence tests.

“(C) **METHODS OF COMPUTATION OF TAXABLE INCOME.**—If an election of one of the following methods is in effect pursuant to subparagraph (F) with respect to a product or type of service, an electing corporation shall compute its income derived from the active conduct of a trade or business in a possession with respect to such product or type of service in accordance with the method which is elected.

“(i) **COST SHARING.**—

“(I) **PAYMENT OF COST SHARING.**—If an election of this method is in effect, the electing corporation must make a payment for its share of the cost (if any) of product area research which is paid or accrued by the affiliated group during that taxable year. Such share shall not be less than the same proportion of the cost of such product area research which the amount of ‘possession sales’ bears to the amount of ‘total sales’ of the affiliated group. The cost of product area research paid or accrued solely by the electing corporation in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreements with related persons) will reduce (but not below zero) the amount of the electing corporation’s cost sharing payment under this method for that year.

“(a) **PRODUCT AREA RESEARCH.**—For purposes of this section, the term ‘product area research’ includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions—including amounts paid or accrued for the performance of research or similar activities by another person; qualified research expenses within the meaning of section 44F(b); amounts paid or accrued for the use of, or the right to use, research or any of the items specified in subsection (h)(3)(B)(i); and a proper allowance for amounts incurred for the acquisition of any of the items specified in subsection (h)(3)(B)(i)—

which are properly apportioned or allocated to the same product area as that in which the electing corporation conducts its activities, and a ratable part of any such costs, losses, expenses and other deductions which cannot definitely be allocated to a particular product area.

“(b) **AFFILIATED GROUP.**—For purposes of this subsection, the term ‘affiliated group’ shall mean the electing corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

“(c) **POSSESSION SALES.**—For purposes of this section, the term ‘possession sales’ means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered, in whole or in part, in the possession in such product area to persons who are not members of the affiliated group.

“(d) **TOTAL SALES.**—For purposes of this section, the term ‘total sales’ means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of all products in the same product area as is used for determining the amount of product area research, and of services rendered in such product area to persons who are not members of the affiliated group.

“(e) **PRODUCT AREA.**—For purposes of this section, the term ‘product area’ shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

“(II) **EFFECT OF ELECTION.**—For purposes of determining the amount of its gross income derived from the active conduct of a trade or business in a possession with respect to a product produced by, or type of service rendered by, the electing corporation for a taxable year, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property described in

subsection (h)(3)(B)(i) which is related to the units of the product produced, or type of service rendered, by the electing corporation. Such electing corporation shall not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) or of any other nonmanufacturing intangible. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of (a) intangible property which was developed solely by such corporation in a possession and is owned by such corporation, (b) intangible property described in subsection (h)(3)(B)(i) acquired by such corporation from a person who was not related to such corporation (or to any person related to such corporation) at the time of, or in connection with, such acquisition, and (c) any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) and other nonmanufacturing intangibles which relate to sales of units of products, or services rendered, to unrelated persons for ultimate consumption or use in the possession in which the electing corporation conducts its trade or business.

“(III) PAYMENT PROVISIONS.—

“(a) The cost sharing payment determined under subparagraph (C)(i)(I) for any taxable year shall be made to the person or persons specified in subparagraph (C)(i)(IV)(a) not later than the time prescribed by law for filing the electing corporation’s return for such taxable year (including any extensions thereof). If all or part of such payment is not timely made, the amount of the cost sharing payment required to be paid shall be increased by the amount of interest that would have been due under section 6601(a) had the portion of the cost sharing payment that is not timely made been an amount of tax imposed by this title and had the last date prescribed for payment been the due date of the electing corporations return (determined without regard to any extension thereof). The amount by which a cost sharing payment determined under subparagraph (C)(i)(I) is increased by reason of the preceding sentence shall not be treated as a cost sharing payment or as interest. If failure to make timely payment is due in whole or in part to fraud or willful neglect, the electing corporation shall be deemed to have revoked the election made under subparagraph (A) on the first day of the taxable year for which the cost sharing payment was required.

26 USC 6601.

“(b) For purposes of this title, any tax of a foreign country or possession of the United States which is paid or accrued with respect to the payment or receipt of a cost sharing payment determined under subparagraph (C)(i)(I) or of an amount of increase referred to in subparagraph (C)(i)(III)(a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts of such tax so paid or accrued.

“(IV) SPECIAL RULES.—

“(a) The amount of the cost sharing payment determined under subparagraph (C)(i)(I), and any increase in the amount thereof in accordance with subparagraph (C)(i)(III)(a), shall not be treated as income of the recipient, but shall reduce the amount of the deductions (and the amount of reductions in earnings and profits) otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group, or, if there is no such domestic member, to the foreign member or members of such affiliated group as the Secretary may provide under regulations.

“(b) If an election of this method is in effect, the electing corporation shall determine its intercompany pricing under the appropriate section 482 method, provided, however, that an electing corporation shall not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

“(c) The amount of qualified research expenses, within the meaning of section 44F, of any member of the controlled group of corporations (as defined in section 44F(f)) of which the electing corporation is a member shall not be affected by the cost sharing payment required under this method.

“(ii) PROFIT SPLIT.—

“(I) GENERAL RULE.—If an election of this method is in effect, the electing corporation’s taxable income derived from the active conduct of a trade or business in a possession with respect to units of a product produced or type of service rendered, in whole or in part, by the electing corporation shall be equal to 50 percent of the combined taxable income of the affiliated group (other than foreign affiliates) derived from covered sales of units of the product produced or type of service rendered, in whole or in part, by the electing corporation in a possession.

26 USC 482.

95 Stat. 241.

“(II) COMPUTATION OF COMBINED TAXABLE INCOME.—Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) for each such product or type of service rendered by deducting from the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product or type of service all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income, which are incurred by the affiliated group (other than foreign affiliates). Notwithstanding any other provision to the contrary, in computing the combined taxable income for each such product or type of service rendered, the research, development, and experimental costs, expenses and related deductions for the taxable year which would otherwise be apportioned or allocated to the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product produced or type of service rendered, in whole or in part, by the electing corporation in a possession, shall not be less than the same proportion of the amount of the share of product area research determined under subparagraph (C)(i)(I) (without regard to the third sentence thereof) in the product area which includes such product or type of service, that such gross income from the product or type of service bears to such gross income from all products produced and types of service rendered, in whole or part, by the electing corporation in a possession.

“(III) DIVISION OF COMBINED TAXABLE INCOME.—50 percent of the combined taxable income computed as provided in subparagraph (C)(ii)(II) shall be allocated to the electing corporation. Combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), less the amount allocated to the electing corporation under the preceding sentence, shall be allocated to the appropriate domestic member or members (other than any electing corporation) of the affiliated group and shall be treated as income from sources within the United States, or, if there is no such domestic member, to a foreign member or members of such affiliated group as the Secretary may provide under regulations.

“(IV) COVERED SALES.—For purposes of this paragraph, the term ‘covered sales’ means sales by members of the affiliated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates.

“(D) UNRELATED PERSON.—For purposes of this paragraph, the term ‘unrelated person’ means any person other than a person related within the meaning of paragraph (3)(D) to the electing corporation.

“(E) ELECTING CORPORATION.—For purposes of this subsection, the term ‘electing corporation’ means a domestic corporation for which an election under this section is in effect.

“(F) TIME AND MANNER OF ELECTION; REVOCATION.—

“(i) IN GENERAL.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made only on or before the due date prescribed by law (including extensions) for filing the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such election shall be binding on the electing corporation and such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

“(ii) MANNER OF MAKING ELECTION.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made by filing a statement to such effect with the return referred to in subparagraph (F)(i) or in such other manner as the Secretary may prescribe by regulations.

“(iii) REVOCATION.—

“(I) Except as provided in subparagraph (F)(iii) (II), an election may be revoked for any taxable year only with the consent of the Secretary.

“(II) An election shall be deemed revoked for the year in which the electing corporation is deemed to have revoked such election under subparagraph (B)(i) or (C) (i)(III) (a).

“(iv) AGGREGATION.—

“(I) Where more than one electing corporation in the affiliated group produces any product or renders any services in the same product area, all such electing corporations must elect to compute their taxable income under the same method under subparagraph (C).

“(II) All electing corporations in the same affiliated group that produce any products or render any services in the same product area may elect, subject to such terms and conditions as the Secretary may prescribe by regulations, to compute their taxable income from export sales under a different method from that used for all other sales and services. For this purpose, export sales means all sales by the electing corporation of products to foreign persons for use or consumption outside the United States and its possessions, provided such products are manufactured or produced in the pos-

session within the meaning of subsection (d)(1)(A) of section 954, and further provided (except to the extent otherwise provided by regulations) the income derived by such foreign person on resale of such products (in the same state or in an altered state) is not included in foreign base company income for purposes of section 954(a).

26 USC 954.

“(III) All members of an affiliated group must consent to an election under this subsection at such time and in such manner as shall be prescribed by the Secretary by regulations.

“(6) TREATMENT OF CERTAIN SALES MADE AFTER JULY 1, 1982.—

“(A) IN GENERAL.—For purposes of this section, in the case of a disposition of intangible property made by a corporation after July 1, 1982, any gain or loss from such disposition shall be treated as gain or loss from sources within the United States to which paragraph (5) does not apply.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any disposition by a corporation of intangible property if such disposition is to a person who is not a related person to such corporation.

“(C) PARAGRAPH DOES NOT AFFECT ELIGIBILITY.—This paragraph shall not apply for purposes of determining whether the corporation meets the requirements of subsection (a)(2).

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including rules for the application of this subsection to income from leasing of products to unrelated persons.”

(b) INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.—Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended—

26 USC 934.

(1) by striking out “50 percent” in subsection (b)(2) and inserting in lieu thereof “65 percent”, and

(2) by adding at the end thereof the following new subsections:

“(e) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME OF CERTAIN DOMESTIC CORPORATIONS.—

“(1) IN GENERAL.—

“(A) INCOME ATTRIBUTABLE TO SHAREHOLDER.—The intangible property income (within the meaning of section 936(h)(3)) for any taxable year of any domestic corporation which is described in subsection (b) and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), shall be included on a pro rata basis in the gross income of all shareholders of such corporation at the close of the taxable year of such corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such corporation ends.

*Ante*, p. 452.

“(B) EXCLUSION FROM THE INCOME OF THE CORPORATION.—Any intangible property income of a corporation described in subparagraph (A) which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

“(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX; INHABITANTS OF THE VIRGIN ISLANDS.—

“(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

“(i) who is not a United States person,

“(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph), or

“(iii) who is an inhabitant of the Virgin Islands.

“(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation described in paragraph (1)(A) which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

“(i) shall be treated as income from sources within the United States, and

“(ii) shall not be taken into account for purposes of determining whether the conditions specified in paragraph (1) or (2) of subsection (b) are satisfied.

“(3) DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—

“(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in paragraph (1) or (2) of subsection (b) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

“(i) if the condition of subsection (b)(1) is not satisfied, that portion of the gross income for the period described in subsection (b)(1)—

“(I) which was not derived from sources within the Virgin Islands, and

“(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (b)(1),

“(ii) if the condition of subsection (b)(2) is not satisfied, that portion of the aggregate gross income for such period—

“(I) which was not derived from the active conduct of a trade or business within the Virgin Islands, and

“(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (b)(2), or

“(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of paragraphs (1) and (2) of subsection (b).

“(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual, an inhabitant of the Virgin Islands, or a foreign corporation, trust, or estate, any distribution described in subparagraph



(A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

“(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLIGENCE.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (b) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

“(4) CERTAIN PROVISIONS OF SECTION 936 TO APPLY.—

“(A) IN GENERAL.—The rules contained in paragraphs (5), (6), and (7) of section 936(h) shall apply to a domestic corporation described in paragraph (1)(A) of this subsection.

*Ante*, p. 452.

“(B) CERTAIN MODIFICATIONS.—For purposes of subparagraph (A), section 936(h) shall be applied by substituting wherever appropriate—

“(i) ‘Virgin Islands’ for ‘possession’, and

“(ii) qualification under paragraphs (1) and (2) of subsection (b) for qualification under section 936(a)(2).

“(f) TRANSITIONAL RULE.—In applying subsection (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for ‘65 percent’:

“For taxable years beginning in calendar year:

The percentage is:

1983 .....	55
1984 .....	60”.

(c) DENIAL OF DIVIDEND RECEIVED DEDUCTION IN CASE OF A DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—Section 246 (relating to rules applying to deduction for dividends received) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 246.

“(e) CERTAIN DISTRIBUTIONS TO SATISFY REQUIREMENTS.—No deduction shall be allowed under section 243(a) with respect to a dividend received pursuant to a distribution described in section 936(h)(4) or 934(e)(3).”

*Ante*, pp. 452, 463.

(d) TRANSFER OF INTANGIBLES BY POSSESSION CORPORATION TREATED AS TRANSFER TO AVOID TAXES.—Section 367 (relating to foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

26 USC 367.

“(d) SPECIAL RULE RELATING TO TRANSFER OF INTANGIBLES BY POSSESSION CORPORATIONS.—

“(1) IN GENERAL.—If, after August 14, 1982, any possession corporation transfers, directly or indirectly, any intangible property (within the meaning of section 936(h)(3)(B)) to any foreign corporation, such transfer shall be treated for purposes of subsection (a) as pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes.

“(2) POSSESSION CORPORATION.—

“(A) IN GENERAL.—The term ‘possession corporation’ means any corporation—

“(i) to which an election under section 936 applies, or

26 USC 934.

“(ii) which is described in subsection (b) of section 934 and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands).

48 USC 1642.

“(B) FORMER POSSESSION CORPORATION.—A corporation shall be treated as a possession corporation with respect to any transfer if such corporation was a possession corporation (within the meaning of subparagraph (A)) at any time during the 5-year period ending on the date of such transfer.

*Ante*, p. 452.

“(3) TRANSFER BY UNITED STATES AFFILIATES.—A rule similar to the rule of paragraph (1) shall apply in the case of a direct or indirect transfer by a United States affiliate to a foreign person of intangible property which, after August 14, 1982, was being used (or held for use) by a possession corporation under an arrangement with a United States affiliate. For purposes of the preceding sentence, the term “United States affiliate” means any United States person who is a member of an affiliated group (within the meaning of section 936(h)(5)(C)(i)(I)(b)) which includes the possession corporation.

“(4) WAIVER AUTHORITY.—Subject to such terms and conditions as the Secretary may provide, paragraph (1) or (3) shall not apply to any case where the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes.”

26 USC 936 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

*Ante*, p. 463.

(2) CERTAIN SALES MADE AFTER JULY 1, 1982.—Paragraph (6) of section 936(h) of the Internal Revenue Code of 1954, and so much of section 934 to which such paragraph applies by reason of section 934(e)(4) of such Code, shall apply to taxable years ending after July 1, 1982.

(3) CERTAIN TRANSFERS OF INTANGIBLES MADE AFTER AUGUST 14, 1982.—Subsection (d) shall apply to taxable years ending after August 14, 1982.

#### PART IV—TAX-EXEMPT OBLIGATIONS

##### SEC. 214. MODIFICATION OF EXEMPTION FOR SMALL ISSUES.

26 USC 103.

(a) COMPOSITE ISSUES.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraphs:

“(K) LIMITATIONS ON TREATMENT OF OBLIGATIONS AS PART OF THE SAME ISSUE.—For purposes of this paragraph, separate lots of obligations which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

“(i) which are located in more than 1 State, or

“(ii) which have, or will have, as the same principal user the same person or related persons.

“(L) FRANCHISES.—For purposes of subparagraph (K), a person (other than a governmental unit) shall be considered

a principal user of a facility if such person (or a group of related persons which includes such person)—

“(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any obligation the proceeds of which are to be used to finance or refinance such facility, and

“(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility.”

(b) **SMALL ISSUE EXEMPTION NOT ALLOWED WHERE OBLIGATIONS ISSUED AS PART OF ISSUE EXEMPT FROM TAX OTHER THAN AS A SMALL ISSUE.**—Paragraph (6) of section 103(b), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

26 USC 103.

“(M) **PARAGRAPH NOT TO APPLY IF OBLIGATIONS ISSUED WITH CERTAIN OTHER TAX-EXEMPT OBLIGATIONS.**—This paragraph shall not apply to any obligation which is issued as part of an issue (other than an issue to which subparagraph (D) applies) if the interest on any other obligation which is part of such issue is excluded from gross income under any provision of law other than this paragraph.”

(c) **TERMINATION OF SMALL ISSUE EXEMPTION AFTER DECEMBER 31, 1986.**—Paragraph (6) of section 103(b), as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

“(N) **PARAGRAPH NOT TO APPLY TO OBLIGATIONS ISSUED AFTER DECEMBER 31, 1986.**—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligation issued to refund an obligation issued on or before such date).”

(d) **EXCLUSION OF CERTAIN RESEARCH EXPENDITURES FROM THE LIMITATION ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.**—Subparagraph (F) of section 103(b)(6) (relating to exclusion of certain capital expenditures) is amended—

(1) by striking out “or” at the end of clause (ii),

(2) by adding “or” at the end of clause (iii), and

(3) by adding at the end thereof the following new clause:  
 “(iv) described in clause (i) or (ii) of section 44F(b)(2)(A) for which a deduction was allowed under section 174(a).”

95 Stat. 241.

(e) **RESTRICTIONS ON FINANCING CERTAIN FACILITIES.**—Paragraph (6) of section 103(b) is amended by adding at the end thereof the following new subparagraph:

“(O) **RESTRICTIONS ON FINANCING CERTAIN FACILITIES.**—This paragraph shall not apply to an issue if—

“(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

“(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (includ-

ing any handball or racquetball court), hot tub facility, suntan facility, or racetrack.”

26 USC 103 note.

(f) **EFFECTIVE DATES.**—

(1) **COMPOSITE ISSUES; SMALL ISSUE EXEMPTION.**—The amendments made by subsections (a) and (b) shall apply to obligations issued after the date of the enactment of this Act.

(2) **TERMINATION.**—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) **RESEARCH EXPENDITURES.**—The amendment made by subsection (d) shall apply with respect to expenditures made after the date of the enactment of this Act.

(4) **CERTAIN FACILITIES.**—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1982.

**SEC. 215. PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS APPLICABLE TO PRIVATE ACTIVITY BONDS.**

*Post*, p. 596.

(a) **PUBLIC APPROVAL.**—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) **PUBLIC APPROVAL FOR INDUSTRIAL DEVELOPMENT BONDS.**—

“(1) **IN GENERAL.**—Notwithstanding subsection (b), an industrial development bond shall be treated as an obligation not described in subsection (a) unless the requirements of paragraph (2) of this subsection are satisfied.

“(2) **PUBLIC APPROVAL REQUIREMENT.**—

“(A) **IN GENERAL.**—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved by—

“(i) the governmental unit—

“(I) which issued such obligation, or

“(II) on behalf of which such obligation was issued, and

“(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

“(B) **APPROVAL BY A GOVERNMENTAL UNIT.**—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

“(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

“(ii) by voter referendum of such governmental unit.

“(C) **SPECIAL RULES FOR APPROVAL OF FACILITY.**—If there has been public approval under subparagraph (A) of the plan of financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

“(i) which is issued pursuant to such plan within 3 years after the date of the first issue pursuant to the approval, and

“(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

“(D) REFUNDING OBLIGATIONS.—No approval under subparagraph (A) shall be necessary with respect to any obligation which is issued to refund an obligation approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such obligation is later than the maturity date of the obligation to be refunded.

“(E) APPLICABLE ELECTED REPRESENTATIVE.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable elected representative’ means with respect to any governmental unit—

“(I) an elected legislative body of such unit, or

“(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

“(ii) NO APPLICABLE ELECTED REPRESENTATIVE.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

“(I) which is the next higher governmental unit with such a representative, and

“(II) from which the authority of the governmental unit with no such representative is derived.”

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Section 103 is amended by redesignating subsection (l) as subsection (m) and by adding at the end thereof the following new subsection:

26 USC 103.

“(l) INFORMATION REPORTING REQUIREMENTS FOR CERTAIN BONDS.—

“(1) IN GENERAL.—Notwithstanding subsection (b), any industrial development bond or any other obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

“(A) to finance loans to individuals for educational expenses, or

“(B) by an organization described in section 501(c)(3) which is exempt from taxation by reason of section 501(a), shall be treated as an obligation not described in paragraph (1) or (2) of subsection (a) unless such bond satisfies the requirements of paragraph (2).

“(2) INFORMATION REPORTING REQUIREMENT.—An obligation satisfies the requirement of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the obligation is issued, a statement concerning the issue of which the obligation is a part which contains—

“(A) the name and address of the issuer,

“(B) the date of issue, the amount of lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

“(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

“(D) the name, address, and employer identification number of—

“(i) each initial principal user of any facilities provided with the proceeds of the issue,

“(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

“(iii) if the issue is treated as a separate issue under subsection (b)(6)(K), any person treated as a principal user under subsection (b)(6)(L), and

“(E) a description of any property to be financed from the proceeds of the issue.

“(3) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion.”

26 USC 103.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(b) (defining industrial development bond) is amended by striking out “For purposes of this subsection” and inserting in lieu thereof “For purposes of this section”.

26 USC 103 note.

(c) EFFECTIVE DATES.—

(1) PUBLIC APPROVAL.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982, other than obligations issued solely to refund any obligation which—

(A) was issued before July 1, 1982, and

(B) has a maturity which does not exceed 3 years.

(2) INFORMATION REPORTING.—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1982 (including any obligation issued to refund an obligation issued before such date).

#### SEC. 216. COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

95 Stat. 204.

(a) COST RECOVERY METHOD.—Subsection (f) of section 168 (relating to special rules for the accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

“(12) LIMITATIONS ON PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, to the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest of which is exempt from taxation under section 103(a), the deduction allowed under subsection (a) (and any deduction allowable in lieu of the deduction allowable under subsection (a)) for any taxable year with respect to such property shall be determined under subparagraph (B).

“(B) RECOVERY METHOD.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value)

and a recovery period determined in accordance with the following table:

<b>"In the case of:</b>	<b>The recovery period is:</b>
3-year property.....	3 years.
5-year property.....	5 years.
10-year property.....	10 years.
15-year public utility property.....	15 years.

"(ii) **15-YEAR REAL PROPERTY.**—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of 15 years.

"(C) **EXCEPTIONS.**—Subparagraph (A) shall not apply to any recovery property which is placed in service—

"(i) in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A),

"(ii) in connection with a sewage or solid waste disposal facility—

"(I) which provides sewage or solid waste disposal services for the residents of part or all of 1 or more governmental units, and

"(II) with respect to which substantially all of the sewage or solid waste processed is collected from the general public,

"(iii) as an air or water pollution control facility which is—

"(I) installed in connection with an existing facility, or

"(II) installed in connection with the conversion of an existing facility which uses oil or natural gas (or any product of oil or natural gas) as a primary fuel to a facility which uses coal as a primary fuel, or

"(iv) in connection with a facility with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974.

"(D) **EXISTING FACILITY.**—For purposes of this paragraph, the term 'existing facility' means a plant or property in operation before July 1, 1982.

"(E) **EXCEPTION WHERE LONGER RECOVERY PERIOD APPLICABLE.**—Subparagraph (A) shall not apply to any recovery property if the recovery period which would be applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under subparagraph (B)."

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service after December 31, 1982, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after June 30, 1982.

(2) **EXCEPTIONS.**—

*Post*, pp. 477, 599.

42 USC 5318.

26 USC 168 note.

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this section shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into before July 1, 1982.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1982 which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before July 1, 1982, the amendments made by this section shall apply only with respect to the basis in such property which has not been recovered before the date such refunding obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1983, the amendments made by this section shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before July 1, 1982.

In the case of an inducement resolution adopted by an issuing authority before July 1, 1982, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term “facilities” means the facilities described in such resolution.

(3) CERTAIN PROJECTS FOR RESIDENTIAL REAL PROPERTY.—For purposes of clause (i) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (as added by this section), any obligation issued to finance a project described in the table contained in paragraph (1) of section 1104(n) of the Mortgage Subsidy Bond Tax Act of 1980 shall be treated as an obligation described in section 103(b)(4)(A) of the Internal Revenue Code of 1954.

#### SEC. 217. MISCELLANEOUS.

(a) EXEMPT OBLIGATIONS FOR LOCAL DISTRICT HEATING AND COOLING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(A) by striking out “or” at the end of subparagraph (H),

(B) by striking out the period at the end of subparagraph (I), and inserting in lieu thereof “, or”, and

(C) by inserting after subparagraph (I) the following new subparagraph:

“(J) local district heating or cooling facilities.”

(2) LOCAL DISTRICT HEATING OR COOLING FACILITIES DEFINED.—Subsection (b) of section 103 is amended by redesignating paragraph (10) as paragraph (13) and by inserting after paragraph (9) the following new paragraph:

“(10) LOCAL DISTRICT HEATING OR COOLING FACILITY.—For purposes of this section—

*Ante*, p. 470.

26 USC 103A  
note.  
*Post*, pp. 477,  
599.

95 Stat. 349.

95 Stat. 349.



“(A) IN GENERAL.—The term ‘local district heating or cooling facility’ means property used as an integral part of a local district heating or cooling system.

“(B) LOCAL DISTRICT HEATING OR COOLING SYSTEM.—

“(i) IN GENERAL.—The term ‘local district heating or cooling system’ means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

“(I) residential, commercial, or industrial heating or cooling, or

“(II) process steam.

“(ii) LOCAL SYSTEM.—For purposes of this subparagraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and one contiguous county.”

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 103(b)(6) is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (13)”. 26 USC 103.

(b) FACILITIES FOR THE LOCAL FURNISHING OF GAS.—Paragraph (4) of section 103(b) is amended by striking out “electric energy from” in the last sentence and inserting in lieu thereof “electric energy or gas from”.

(c) QUALIFIED MASS COMMUTING VEHICLE.—Subparagraph (A) of section 103(b)(9) (defining qualified mass commuting vehicle) is amended— 95 Stat. 349.

(1) by inserting “ferry,” after “rail car”, and

(2) by inserting after “mass commuting services” in clause (ii) the phrase “(or, in the case of a ferry, mass transportation services)”.

(d) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITY.—Subsection (b) of section 103 is amended by inserting after paragraph (10) (as added by subsection (a)) the following new paragraph:

“(11) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITIES.—

“(A) IN GENERAL.—For purposes of subparagraph (F) of paragraph (4), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

“(B) RESTRICTIONS.—Subparagraph (A) shall apply only if—

“(i) the amount paid, directly or indirectly, for the facilities does not exceed their fair market value,

“(ii) the fees or charges imposed, directly or indirectly, on the seller for any use of the facilities after the sale are not less than the amounts that would be charged if the facilities were financed with obligations the interest on which is not exempt from tax, and

“(iii) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

“(C) **QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.**—For purposes of this paragraph, the term ‘qualified regional pollution control authority’ means an authority which—

“(i) is a political subdivision created by State law to control air or water pollution,

“(ii) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

“(iii) operates air or water pollution control facilities.”

26 USC 103 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

#### SEC. 218. TREATMENT OF CERTAIN REFUNDING OBLIGATIONS.

26 USC 103.

(a) **GENERAL RULE.**—Paragraph (1) of section 103(b) of the Internal Revenue Code of 1954 shall not apply to any qualified refunding obligation issued by a qualified issuer after the date of the enactment of this Act.

(b) **QUALIFIED REFUNDING OBLIGATION.**—For purposes of subsection (a), a qualified refunding obligation is any obligation issued as part of an issue if—

(1) substantially all of the proceeds of such issue are used to defease refunded bonds which were issued under a pooled security arrangement pursuant to a bond resolution which was adopted in 1974 and under which at least 20 facilities have been financed before 1978, and

(2) each refunded bond is to be retired within 6 months after the first date on which there is no premium for early retirement of such bond.

(c) **QUALIFIED ISSUER.**—For purposes of subsection (a), a qualified issuer is a political subdivision created by a State in 1932 which is engaged primarily in promoting economic development.

#### SEC. 219. LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS.

(a) **GENERAL RULE.**—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

“(14) **MATURITY MAY NOT EXCEED 120 PERCENT OF ECONOMIC LIFE.**—

*Ante*, p. 472.

“(A) **GENERAL RULE.**—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if—

“(i) the average maturity of the obligations which are part of such issue, exceeds

“(ii) 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue.

“(B) **DETERMINATION OF AVERAGES.**—For purposes of subparagraph (A)—

“(i) the average maturity of any issue shall be determined by taking into account the respective issue prices of the obligations which are issued as part of such issue, and

“(ii) the average reasonably expected economic life of the facilities being financed with any issue shall be

determined by taking into account the respective cost of such facilities.

“(C) SPECIAL RULES.—

“(i) DETERMINATION OF ECONOMIC LIFE.—For purposes of this paragraph, the reasonably expected economic life of any facility shall be determined as of the later of—

“(I) the date on which the obligations are issued, or

“(II) the date on which the facility is placed in service (or expected to be placed in service).

“(ii) TREATMENT OF LAND.—

“(I) LAND NOT TAKEN INTO ACCOUNT.—Except as provided in subclause (II), land shall not be taken into account under subparagraph (A)(ii).

“(II) ISSUES WHERE 25 PERCENT OR MORE OF PROCEEDS USED TO FINANCE LAND.—If 25 percent or more of the proceeds of any issue is used to finance land, such land shall be taken into account under subparagraph (A)(ii) and shall be treated as having an economic life of 50 years.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982. 26 USC 103 note.

SEC. 220. MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 103A(i)(2) (relating to effective rate of mortgage interest) is amended by striking out “1 percentage point” and inserting in lieu thereof “1.125 percentage points”. 26 USC 103A.

(2) CLARIFICATION OF PREPAYMENT ASSUMPTIONS.—Clause (iv) of section 103A(i)(2)(B) (relating to prepayment assumptions) is amended to read as follows:

“(iv) PREPAYMENT ASSUMPTIONS.—In determining the effective rate of interest—

“(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located, and

“(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.”

(3) CONFORMING AMENDMENTS.—

(A) The paragraph heading of paragraph (2) of section 103A(i) is amended by striking out “1 PERCENTAGE POINT” and inserting in lieu thereof “1.125 PERCENTAGE POINTS”.

(B) Subparagraph (C) of section 103A(i)(4) is amended—

(i) by striking out “1 percentage point” in clause (ii) and inserting in lieu thereof “1.125 percentage points”, and

(ii) by striking out “1 PERCENTAGE POINT” in the caption and inserting in lieu thereof “1.125 PERCENTAGE POINTS”.

26 USC 103A.

(b) **DISPOSITION OF NONMORTGAGE INVESTMENT IN CASE OF LOSS.**—Paragraph (3) of section 103A(i) (relating to nonmortgage investment requirements) is amended by adding at the end thereof the following new subparagraph:

“(D) **NO DISPOSITION IN CASE OF LOSS.**—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid or credited to the mortgagors under paragraph (4)(A) (but for such sale or disposition) at the time of such sale or disposition.”

(c) **REQUIREMENT THAT MORTGAGORS BE FIRST TIME HOME-BUYERS.**—Subsection (e) of section 103A (relating to 3-year requirement) is amended to read as follows:

“(e) **3-YEAR REQUIREMENT.**—

“(1) **IN GENERAL.**—An issue meets the requirements of this subsection only if 90 percent or more of the lendable proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

“(2) **EXCEPTIONS.**—For purposes of paragraph (1), the proceeds of an issue which are used—

“(A) to provide financing with respect to targeted area residences,

“(B) to provide qualified home improvement loans, and

“(C) to provide qualified rehabilitation loans,

shall not be taken into account.

“(3) **MORTGAGOR'S INTEREST IN RESIDENCE BEING FINANCED.**—

For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.”

(d) **INCREASE IN MAXIMUM PURCHASE PRICE.**—Subsection (f) of section 103A (relating to purchase price requirement) is amended—

(1) by striking out “90 percent” each place it appears and inserting in lieu thereof “110 percent” and

(2) by striking out “110 percent” in paragraph (5) and inserting in lieu thereof “120 percent”.

(e) **TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.**—Subsection (l) of section 103A (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

“(10) **COOPERATIVE HOUSING CORPORATIONS.**—

“(A) **IN GENERAL.**—In the case of any cooperative housing corporation—

“(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

“(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

“(B) **ADJUSTMENT TO TARGETED AREA REQUIREMENT.**—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other

issues for purposes of determining whether the requirements of subsection (h) are met.

“(C) COOPERATIVE HOUSING CORPORATION.—The term ‘cooperative housing corporation’ has the meaning given to such term by section 216(b)(1).”

26 USC 216.  
26 USC 103A  
note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) FIRST TIME HOMEBUYER REQUIREMENT.—The amendments made by subsection (c) shall also apply to obligations issued after April 24, 1979, and before the date of the enactment of this Act but only to the extent that the proceeds of such obligations are not committed as of the date of the enactment of this Act.

SEC. 221. INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN RESIDENTIAL RENTAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended to read as follows: *Post*, p. 599.

“(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if at all times during the qualified project period—

“(i) 15 percent or more in the case of targeted area projects, or

“(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income.”

(b) DEFINITIONS.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by inserting after paragraph (11) the following new paragraph:

*Ante*, p. 473.

“(12) PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—For purposes of paragraph (4)(A)—

“(A) TARGETED AREA PROJECT.—The term ‘targeted area project’ means—

“(i) a project located in a qualified census tract (within the meaning of section 103A(k)(2)), or

“(ii) an area of chronic economic distress (within the meaning of section 103A(k)(3)).

“(B) QUALIFIED PROJECT PERIOD.—The term ‘qualified project period’ means the period beginning on the first day on which 10 percent of the units in the project are occupied and ending on the later of—

“(i) the date which is 10 years after the date on which 50 percent of the units in the project are occupied,

“(ii) the date which is a qualified number of days after the date on which any of the units in the project are occupied, or

“(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of clause (ii), the term ‘qualified number’ means, with respect to an obligation described in paragraph (4)(A), 50 percent of the number of days which comprise the term of the obligation with the longest maturity.

42 USC 1437f.  
“Qualified  
number.”

“(C) INDIVIDUALS OF LOW AND MODERATE INCOME.—Individuals of low and moderate income shall be determined by

- the Secretary in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937 (or if such program is terminated, under such program as in effect immediately before such termination), except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent.”
- 42 USC 1437f.
- (c) CONFORMING AMENDMENTS.—
- 26 USC 103. (1) Paragraph (4) of section 103(b) is amended by striking out the second sentence thereof.
- (2) Subsection (k) of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is hereby repealed.
- 26 USC 103A note.
- 26 USC 103 note. (d) EFFECTIVE DATES.—
- (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.
- (2) EXCEPTION.—The amendments made by this section shall not apply with respect to any obligation to which the amendments made by section 1103 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply by reason of section 1104 of such Act.
- 26 USC 103.

## PART V—MERGERS AND ACQUISITIONS

### Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

#### SEC. 222. PARTIAL LIQUIDATIONS.

- (a) SECTION 331 (WHICH PROVIDES CAPITAL GAIN OR LOSS TREATMENT FOR SHAREHOLDERS IN LIQUIDATIONS) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended to read as follows:
- 26 USC 331. “(a) DISTRIBUTIONS IN COMPLETE LIQUIDATION TREATED AS EXCHANGES.—Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock.”
- (b) SECTION 336 (WHICH PROVIDES NONRECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS BY LIQUIDATING CORPORATION) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 336 (relating to distributions of property in liquidation) is amended by striking out “partial or complete liquidation” and inserting in lieu thereof “complete liquidation”.
- 26 USC 336. (c) DISTRIBUTIONS TO NONCORPORATE SHAREHOLDERS WHICH QUALIFY AS PARTIAL LIQUIDATIONS UNDER EXISTING LAW TREATED AS REDEMPTIONS.—
- 26 USC 302. (1) Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:
- “(4) REDEMPTION FROM NONCORPORATE SHAREHOLDER IN PARTIAL LIQUIDATION.—Subsection (a) shall apply to a distribution if such distribution is—
- “(A) in redemption of stock held by a shareholder who is not a corporation, and
- “(B) in partial liquidation of the distributing corporation.”

(2) Section 302 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) PARTIAL LIQUIDATION DEFINED.—

“(1) IN GENERAL.—For purposes of subsection (b)(4), a distribution shall be treated as in partial liquidation of a corporation if—

“(A) the distribution is not essentially equivalent to a dividend (determined at the corporate level rather than at the shareholder level), and

“(B) the distribution is pursuant to a plan and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

“(2) TERMINATION OF BUSINESS.—The distributions which meet the requirements of paragraph (1)(A) shall include (but shall not be limited to) a distribution which meets the requirements of subparagraphs (A) and (B) of this paragraph:

“(A) The distribution is attributable to the distributing corporation’s ceasing to conduct, or consists of the assets of, a qualified trade or business.

“(B) Immediately after the distribution, the distributing corporation is actively engaged in the conduct of a qualified trade or business.

“(3) QUALIFIED TRADE OR BUSINESS.—For purposes of paragraph (2), the term ‘qualified trade or business’ means any trade or business which—

“(A) was actively conducted throughout the 5-year period ending on the date of the redemption, and

“(B) was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

“(4) REDEMPTION MAY BE PRO RATA.—Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (2) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.

“(5) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—For purposes of determining under subsection (b)(4) whether any stock is held by a shareholder who is not a corporation, any stock held by a partnership, estate, or trust shall be treated as if it were actually held proportionately by its partners or beneficiaries.”

(3) Subsection (a) of section 302 is amended by striking out “paragraph (1), (2), or (3)” and inserting in lieu thereof “paragraph (1), (2), (3), or (4)”.

(4) Paragraph (5) of section 302(b) (as redesignated by paragraph (1)) is amended—

(A) by striking out “paragraph (2) or (3)” and inserting in lieu thereof “paragraph (2), (3), or (4)”, and

(B) by striking out “paragraph (1) or (2)” and inserting in lieu thereof “paragraph (1), (2), or (4)”.

(d) DEFINITION AND SPECIAL RULE.—Section 346 (defining partial liquidation) is amended to read as follows:

“SEC. 346. DEFINITION AND SPECIAL RULE.

“(a) COMPLETE LIQUIDATION.—For purposes of this subchapter, a distribution shall be treated as in complete liquidation of a corpora-

26 USC 302.

26 USC 346.

## Regulations.

*Ante*, p. 478.26 USC 355, 351,  
337.

tion if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

“(b) TRANSACTIONS WHICH MIGHT REACH SAME RESULT AS PARTIAL LIQUIDATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of subsections (a) and (b) of section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of section 355, 351, 337, or any other provision of law or regulations (including the consolidated return regulations).”

## (e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out “partial or complete liquidation” and inserting in lieu thereof “complete liquidation”:

26 USC 306.

26 USC 331.

(A) Paragraph (2) of section 306(b) (relating to exceptions).

(B) Subsection (b) of section 331 (relating to nonapplication of section 301).

26 USC 334.

(C) Subsection (a) of section 334 (relating to basis of property received in liquidations).

26 USC 336.

(D) Paragraph (1) of section 336(b) (relating to distributions of LIFO inventory).

26 USC 306.

(2) Subparagraph (B) of section 306(b)(1) (relating to exception for redemptions) is amended by striking out “section 302(b)(3)” and inserting in lieu thereof “paragraph (3) or (4) of section 302(b)”.

26 USC 312.

(3) Subsection (e) of section 312 (relating to special rule for partial liquidation and certain redemptions) is amended—

(A) by striking out “in partial liquidation (whether before, on, or after June 22, 1954) or”; and

(B) by striking out “PARTIAL LIQUIDATIONS AND” in the heading thereof.

26 USC 338.

(4) Section 338 (as in effect on the day before the date of the enactment of this Act) is hereby repealed.

26 USC 341.

(5) Paragraph (2) of section 341(a) (relating to collapsible corporations) is amended to read as follows:

“(2) a distribution—

“(A) in complete liquidation of a collapsible corporation if such distribution is treated under this part as in part or full payment in exchange for stock, or

*Ante*, p. 479.*Ante*, p. 478.

“(B) in partial liquidation (within the meaning of section 302(e)) of a collapsible corporation if such distribution is treated under section 302(b)(4) as in part or full payment in exchange for the stock, and”.

26 USC 543.

(6) Paragraph (1) of section 543(a) (relating to personal holding company income) is amended—

(A) by striking out “and” at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph

(B) and inserting in lieu thereof “, and”, and

(C) by adding at the end thereof the following new subparagraph:

“(C) dividends to which section 302(b)(4) would apply if the corporation were an individual.”

26 USC 562.

(7) Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence:

“For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies.”



(8)(A) The heading and table of sections for subpart D of part II of subchapter C of chapter 1 are amended to read as follows:

**“Subpart D—Definition and Special Rule**

“Sec. 346. Definition and special rule.”

(B) The item relating to subpart D in table of subparts for such part II is amended to read as follows:

“Subpart D—Definition and special rule.”

(f) **EFFECTIVE DATES.—**

26 USC 302 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to distributions after August 31, 1982.

(2) **EXCEPTIONS.—**

(A) **RULING REQUESTS.**—The amendments made by this section shall not apply to distributions made by any corporation if—

(i)(I) on July 22, 1982, there was a ruling request by such corporation pending with the Internal Revenue Service as to whether such distributions would qualify as a partial liquidation, or

(II) within the period beginning on July 12, 1981, and ending on July 22, 1982, the Internal Revenue Service granted a ruling to such corporation that the distributions would qualify as a partial liquidation, and

(ii) such distributions are pursuant to a plan of partial liquidation adopted before October 1, 1982 (or, if later, 90 days after the date on which the Internal Revenue Service granted a ruling pursuant to the request described in clause (i)(I)).

(B) **PLANS ADOPTED BEFORE JULY 23, 1982.**—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before July 23, 1982.

(C) **CONTROL CONTROL ACQUIRED AFTER 1981 AND BEFORE JULY 23, 1982**—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before October 1, 1982, where control of the corporation making the distributions was acquired after December 31, 1981, and before July 23, 1982.

(D) **TENDER OFFER OR BINDING CONTRACT OUTSTANDING ON JULY 22, 1982.—**

(i) **IN GENERAL.**—The amendments made by this section shall not apply to distributions made by a corporation if—

(I) such distributions are pursuant to a plan of liquidation adopted before October 1, 1982, and

(II) control of such corporation was acquired after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date.

(ii) **EXTENSION OF TIME FOR ADOPTING PLAN WHERE ACQUISITION SUBJECT TO FEDERAL REGULATORY APPROVAL.**—If the acquisition described in clause (i)(II) is subject to approval by a Federal regulatory agency, clause (i) shall be applied by substituting for “October 1, 1982” the date which is 90 days after the date on

which approval by the Federal regulatory agency of such acquisition becomes final.

(iii) SPECIAL RULE WHERE OFFER SUBJECT TO APPROVAL BY FOREIGN REGULATORY BODY.—In any case where an offer to acquire stock in a corporation was subject to intervention by a foreign regulatory body and a public announcement of such an offer resulted in the intervention by such foreign regulatory body before July 23, 1982—

(I) such public announcement shall be treated as a tender offer, and

(II) clause (i) shall be applied by substituting for “October 1, 1982” the date which is 90 days after the date on which such regulatory body approves a public offer to acquire stock in such corporation.

(iv) SPECIAL RULE WHERE ONE-THIRD OF SHARES ACQUIRED DURING MARCH AND APRIL 1982.—If—

(I) one-third or more of the shares of a corporation were acquired by another corporation during March and April 1982, and

(II) during March or April 1982, the acquiring corporation filed with the Federal Trade Commission notification of its intent to acquire control of the acquired corporation,

subclause (II) of clause (i) shall not apply with respect to distributions made by the acquired corporation.

(E) INSURANCE COMPANIES.—The amendments made by this section shall not apply to distributions made by an insurance company pursuant to a plan of partial liquidation adopted before October 1, 1982, where control was acquired by the distributee or its parent after December 31, 1980, and before July 23, 1982, and the conduct of the insurance business by the distributee is conditioned on approval by a State regulatory authority.

“Control.”

For purposes of this paragraph, the term “control” has the meaning given to such term by section 368(c) of the Internal Revenue Code of 1954.

26 USC 368.

(3) APPROVAL OF PLAN BY BOARD OF DIRECTORS.—For purposes of—

(A) paragraph (2), and

(B) applying section 346(a)(2) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) to distributions to which (but for paragraph (2)) the amendments made by this section would apply,

a plan of liquidation shall be treated as adopted when approved by the corporation’s board of directors.

(4) COORDINATION WITH AMENDMENTS MADE BY SECTION 224.—For purposes of section 338(e)(2)(C) of the Internal Revenue Code of 1954 (as added by section 224), any property acquired in a distribution to which the amendments made by this section do not apply by reason of paragraph (2) shall be treated as acquired before September 1, 1982.

Post, p. 485.

## SEC. 223. DISTRIBUTION OF APPRECIATED PROPERTY IN REDEMPTION OF STOCK.

## (a) AMENDMENTS TO CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—

(1) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 311(d)(2) (relating to appreciated property used to redeem stock) are amended to read as follows: 26 USC 311.

“(A) a distribution to a corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

“(B) a distribution to which section 302(b)(4) applies and which is made with respect to qualified stock; *Ante*, p. 478.

“(C) a distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subsection (e) are met with respect to the distribution;”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 311 is amended by adding at the end thereof the following new subsection: 26 USC 311.

“(e) DEFINITIONS AND SPECIAL RULES FOR SUBSECTION (d)(2).—For purposes of subsection (d)(2) and this subsection—

“(1) QUALIFIED STOCK.—

“(A) IN GENERAL.—The term ‘qualified stock’ means stock held by a person (other than a corporation) who at all times during the lesser of—

“(i) the 5-year period ending on the date of distribution, or

“(ii) the period during which the distributing corporation (or a predecessor corporation) was in existence, held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

“(B) DETERMINATION OF STOCK HELD.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term ‘family’ includes any individual described in section 267(c)(4) and any spouse of any such individual.

“(2) DISTRIBUTIONS OF STOCK OR OBLIGATIONS OF CONTROLLED CORPORATIONS.—

“(A) REQUIREMENTS.—A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the ‘controlled corporation’) meets the requirements of this paragraph if—

“(i) such distribution is made with respect to qualified stock,

“(ii) substantially all of the assets of the controlled corporation consists of the assets of 1 or more qualified businesses,

“(iii) no substantial part of the controlled corporation’s nonbusiness assets were acquired from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

“(iv) more than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

“(B) DEFINITIONS.—For purposes of subparagraph (A)—

“(i) **QUALIFIED BUSINESS.**—The term ‘qualified business’ means any trade or business which—

“(I) was actively conducted throughout the 5-year period ending on the date of the distribution, and

“(II) was not acquired by any person within such period in a transaction in which gain or loss was recognized in whole or in part.

“(ii) **NONBUSINESS ASSET.**—The term ‘nonbusiness asset’ means any asset not used in the active conduct of a trade or business.”

26 USC 311.

(3) **CONFORMING AMENDMENT.**—Section 311(d)(2) is amended—

(A) by inserting “and” at the end of subparagraph (E),

(B) by striking out the semicolon and “and” at the end of subparagraph (F) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (G).

26 USC 311 note.

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after August 31, 1982.

(2) **DISTRIBUTIONS PURSUANT TO RULING REQUESTS BEFORE JULY 23, 1982.**—In the case of a ruling request under section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) made before July 23, 1982, the amendments made by this section shall not apply to distributions made—

(A) pursuant to a ruling granted pursuant to such request, and

(B) within 90 days after the date of such ruling.

(3) **DISTRIBUTIONS PURSUANT TO FINAL JUDGMENTS OF COURT.**—In the case of a final judgment described in section 311(d)(2)(C) of such Code (as in effect before the amendments made by this section) rendered before July 23, 1982, the amendments made by this section shall not apply to distributions made before January 1, 1986, pursuant to such judgment.

(4) **CERTAIN DISTRIBUTIONS WITH RESPECT TO STOCK ACQUIRED BEFORE MAY 1982.**—The amendments made by this section shall not apply to distributions—

(A) which meet the requirements of section 311(d)(2)(A) of such Code (as in effect on the day before the date of the enactment of this Act),

(B) which are made on or before August 31, 1983, and

(C) which are made with respect to stock acquired after 1980 and before May 1982.

(5) **DISTRIBUTIONS OF TIMBERLAND WITH RESPECT TO STOCK OF FOREST PRODUCTS COMPANY.**—If—

(A) a forest products company distributes timberland to a shareholder in redemption of the common and preferred stock in such corporation held by such shareholder,

(B) section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) would have applied to such distributions, and

(C) such distributions are made pursuant to 1 of 2 options contained in a contract between such company and such shareholder which is binding on August 31, 1982, and at all times thereafter,

then such distributions of timberland having an aggregate fair market value on August 31, 1982, not in excess of \$10,000,000 shall be treated as distributions to which section 311(d)(2)(A) of such Code (as in effect before the date of the enactment of this Act) applies.

### **Subpart B—Certain Stock Purchases Treated as Asset Purchases**

#### **SEC. 224. CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES.**

(a) **GENERAL RULE.**—Subpart B of part II of subchapter C of chapter 1 (relating to effects on corporation) is amended by adding at the end thereof the following new section:

#### **“SEC. 338. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS. 26 USC 338.**

“(a) **GENERAL RULE.**—For purposes of this subtitle, if a purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

“(1) shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which section 337 applies, and

“(2) shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

#### **“(b) PRICE AT WHICH DEEMED SALE MADE.—**

“(1) **IN GENERAL.**—For purposes of subsection (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

“(A) the grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date,

“(B) properly adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

“(2) **GROSSED-UP BASIS.**—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

“(A) the numerator of which is 100 percent, and

“(B) the denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date.

“(3) **ALLOCATION AMONG ASSETS.**—The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary

#### **“(c) SPECIAL RULES.—**

“(1) **COORDINATION WITH SECTION 337 WHERE PURCHASING CORPORATION HOLDS LESS THAN 100 PERCENT OF STOCK.**—If during the 1-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying section 337 for purposes of subsection (a)(1), the non-recognition of gain or loss shall be limited to an amount determined by applying such maximum percentage to such gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during such 1-year period.

26 USC 302.

“(2) CERTAIN REDEMPTIONS WHERE ELECTION MADE.—If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under section 302(b)(3) (determined without regard to the application of section 302(c)(2)(A)(ii)), section 336 shall apply to such distribution as if it were a distribution in complete liquidation.

“(d) PURCHASING CORPORATION; TARGET CORPORATION; QUALIFIED STOCK PURCHASE.—For purposes of this section—

“(1) PURCHASING CORPORATION.—The term ‘purchasing corporation’ means any corporation which makes a qualified stock purchase of stock of another corporation.

“(2) TARGET CORPORATION.—The term ‘target corporation’ means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

“(3) QUALIFIED STOCK PURCHASE.—The term ‘qualified stock purchase’ means any transaction or series of transactions in which stock of 1 corporation possessing—

“(A) at least 80 percent of total combined voting power of all classes of stock entitled to vote, and

“(B) at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends),

is acquired by another corporation by purchase during the 12-month acquisition period.

“(e) DEEMED ELECTION WHERE PURCHASING CORPORATION ACQUIRES ASSET OF TARGET CORPORATION.—

“(1) IN GENERAL.—A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

“(A) such acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

“(B) the basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of such property in the hands of the person from whom acquired,

“(C) such acquisition was before September 1, 1982,

“(D) to the extent provided in regulations, the property acquired is located outside the United States, or

“(E) such acquisition is described in regulations prescribed by the Secretary.

“(3) ANTI-AVOIDANCE RULE.—Whenever necessary to carry out the purpose of this subsection and subsection (f), the Secretary may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3) as qualified stock purchases.

“(f) CONSISTENCY REQUIRED FOR ALL STOCK ACQUISITIONS FROM SAME AFFILIATED GROUP.—If a purchasing corporation makes qualified stock purchases with respect to the target corporation and 1 or more target affiliates during any consistency period, then (except as otherwise provided in subsection (e))—

“(1) any election under this section with respect to the first such purchase shall apply to each other such purchase, and

“(2) no election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

“(g) ELECTION.—

“(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

“(2) MANNER.—An election by the purchasing corporation under this section shall be made in such manner as the Secretary shall by regulations prescribe.

“(3) ELECTION IRREVOCABLE.—An election by a purchasing corporation under this section, once made, shall be irrevocable.

“(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) 12-MONTH ACQUISITION PERIOD.—The term ‘12-month acquisition period’ means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

“(2) ACQUISITION DATE.—The term ‘acquisition date’ means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of such corporation.

“(3) PURCHASE.—

“(A) IN GENERAL.—The term ‘purchase’ means any acquisition of stock, but only if—

“(i) the basis of the stock in the hands of the purchasing corporation is not determined (I) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or (II) under section 1014(a) (relating to property acquired from a decedent),

26 USC 1014.

“(ii) the stock is not acquired in an exchange to which section 351 applies, and

“(iii) the stock is not acquired from a person the ownership of whose stock would, under section 318(a) (other than paragraph (4) thereof), be attributed to the person acquiring such stock.

“(B) DEEMED PURCHASE OF STOCK OF SUBSIDIARIES.—If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of such acquisition, the corporation making such purchase is treated (by reason of section 318(a)) as owning stock in a 3rd corporation, the corporation making such purchase shall be treated as having purchased such stock in such 3rd corporation. The corporation making such purchase shall be treated as purchasing stock in the 3rd corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under section 318(a) as owning such stock.

“(4) CONSISTENCY PERIOD.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘consistency period’ means the period consisting of—

“(i) the 1-year period before the beginning of the 12-month acquisition period for the target corporation,

"(ii) such acquisition period (up to and including the acquisition date), and

"(iii) the 1-year period beginning on the day after the acquisition date.

"(B) EXTENSION WHERE THERE IS PLAN.—The period referred to in subparagraph (A) shall also include any period during which the Secretary determines that there was in effect a plan to make a qualified stock purchase plus 1 or more other qualified stock purchases (or asset acquisitions described in subsection (e)) with respect to the target corporation or any target affiliate.

26 USC 1504.

"(5) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by section 1504(a) (determined without regard to the exceptions contained in section 1504(b)).

"(6) TARGET AFFILIATE.—

"(A) IN GENERAL.—A corporation shall be treated as a target affiliate of the target corporation if each of such corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

"(B) CERTAIN FOREIGN CORPORATIONS, ETC.—Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

"(i) the term 'target affiliate' does not include a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which an election under section 936 applies, and

"(ii) stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or described in section 1248(e) shall be excluded from the operation of this section.

"(7) ACQUISITIONS BY PURCHASING CORPORATION INCLUDE ACQUISITIONS BY CORPORATIONS AFFILIATED WITH PURCHASING CORPORATION.—Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations)."

26 USC 334.

(b) REPEAL OF SECTION 334(b)(2).—Subsection (b) of section 334 (relating to limitation of subsidiary) is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) DISTRIBUTION IN COMPLETE LIQUIDATION.—If property is received by a corporation in a distribution in a complete liquidation to which section 332(a) applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

"(2) TRANSFERS TO WHICH SECTION 332 (C) APPLIES.—If property is received by a corporation in a transfer to which section 332(c) applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.



“(3) **DISTRIBUTEES DEFINED.**—For purposes of this subsection, the term ‘distributee’ means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b).”

(c) **TECHNICAL AMENDMENTS.**—

(1) Subparagraph (E) of section 168(e)(4) (relating to liquidation of subsidiary, etc.) is amended by adding at the end thereof the following new sentence: “A similar rule shall apply in the case of a deemed liquidation under section 338.” 95 Stat. 204.

(2) Clause (i) of section 168(f)(10)(B) is amended by striking out “(other than a transaction with respect to which the basis is determined under section 334(b)(2))”.

(3) Paragraph (4) of section 318(b) is amended to read as follows: 26 USC 318.

“(4) section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.);”.

(4) Paragraph (2) of section 336(b) is amended by striking out “334(b)(1)” each place it appears and inserting in lieu thereof “334(b)”. 26 USC 336.

(5) Paragraph (2) of section 337(c) (relating to liquidations to which section 332 applies) is amended to read as follows: 26 USC 337.

“(2) **LIQUIDATIONS TO WHICH SECTION 332 APPLIES.**—In the case of any sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation, this section shall not apply.”

(6) Subsection (d) of section 337 is amended by striking out “subsection (c)(2)(A)” each place it appears and inserting in lieu thereof “subsection (c)(2)”. 26 USC 337.

(7) Paragraph (1) of section 381(a) is amended by striking out “, except in a case in which the basis of the assets distributed is determined under section 334(b)(2)”.

(8) Subparagraph (B) of section 617(h)(3) is amended by inserting “338,” after “334(b),”. 26 USC 617.

(9) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 338 and inserting in lieu thereof the following:

“Sec. 338. Certain stock purchases treated as asset acquisitions.”

(d) **EFFECTIVE DATES.**— 26 USC 338 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to any target corporation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

(2) **CERTAIN ACQUISITIONS BEFORE SEPTEMBER 1, 1982.**—If—

(A) an acquisition date under paragraph (1) occurred after August 31, 1980, and before September 1, 1982,

(B) the target corporation (within the meaning of section 338 of such Code) is not liquidated before September 1, 1982, and

(C) the purchasing corporation (within the meaning of section 338 of such Code) makes, not later than November 15, 1982, an election under section 338 of such Code, then the amendments made by this section shall apply to the acquisition of such target corporation.

(3) **CERTAIN ACQUISITIONS OF FINANCIAL INSTITUTIONS.**—In any case in which—

(A) there is, on July 22, 1982, a binding contract to acquire control (within the meaning of section 368(c) of such Code) of any financial institution,

(B) the approval of one or more regulatory authorities is required in order to complete such acquisition, and

(C) within 90 days after the date of the final approval of the last such regulatory authority granting final approval, a plan of complete liquidation of such financial institution is adopted,

then the purchasing corporation may elect not to have the amendments made by this section apply to the acquisition pursuant to such contract.

### Subpart C—Miscellaneous Provisions

#### SEC. 225. CLARIFICATION OF SECTION 368(a)(1)(F).

26 USC 368.

(a) GENERAL RULE.—Subparagraph (F) of section 368(a)(1) (defining reorganization) is amended by inserting “of one corporation” after “place of organization”.

26 USC 368 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions occurring after August 31, 1982.

(2) PLANS ADOPTED ON OR BEFORE AUGUST 31, 1982.—The amendment made by subsection (a) shall not apply with respect to plans of reorganization adopted on or before August 31, 1982, but only if the transaction occurs before January 1, 1983.

#### SEC. 226. AMENDMENTS RELATING TO BAILOUTS THROUGH USE OF HOLDING COMPANIES.

(a) AMENDMENTS TO SECTION 304.—

26 USC 304.

(1) COORDINATION OF SECTIONS 304 AND 351.—

(A) Subsection (b) of section 304 (relating to special rules for application of subsection (a)) is amended by adding at the end thereof the following new paragraph:

“(3) COORDINATION WITH SECTION 351.—

“(A) PROPERTY TREATED AS RECEIVED IN REDEMPTION.—Except as otherwise provided in this paragraph, subsection (a) (and not part III) shall apply to any property received in a distribution described in subsection (a).

“(B) CERTAIN ASSUMPTIONS OF LIABILITY, ETC.—

“(i) IN GENERAL.—Subsection (a) shall not apply to any liability—

“(I) assumed by the acquiring corporation, or

“(II) to which the stock is subject,

if such liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term ‘stock’ means stock referred to in paragraph (1)(B) or (2)(A) of subsection (a).

“(ii) EXTENSION OF OBLIGATIONS, ETC.—For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting such requirements.

“(C) DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.—If—

“(i) pursuant to a plan, control of a bank is acquired and within 2 years after the date on which such control

“Stock.”

is acquired, stock constituting control of such bank is transferred to a BHC in connection with its formation,

“(ii) incident to the formation of the BHC there is a distribution of property described in subsection (a), and

“(iii) the shareholders of the BHC who receive distributions of such property do not have control of such BHC,

then, subsection (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of such BHC.

“(D) DEFINITIONS AND SPECIAL RULE.—For purposes of subparagraph (C) and this subparagraph—

“(i) QUALIFIED MINORITY SHAREHOLDER.—The term ‘qualified minority shareholder’ means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subsection (c) shall apply.

“(ii) BHC.—The term ‘BHC’ means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

12 USC 1841.

“(iii) SPECIAL RULE IN CASE OF BHC’S FORMED BEFORE 1985.—In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply.”

(B) Subsection (f) of section 351 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

26 USC 351.

“(5) For coordination of this section with section 304, see section 304(b)(3).”

(2) APPLICATION OF SECTION 304 WHERE STOCK IS ACQUIRED IN THE TRANSACTION.—

(A) Subsection (c) of section 304 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) STOCK ACQUIRED IN THE TRANSACTION.—For purposes of subsection (a)(1)—

“(A) GENERAL RULE.—Where 1 or more persons in control of the issuing corporation transfer stock of such corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether such person or persons are in control of the acquiring corporation.

26 USC 304.

“(B) DEFINITION OF CONTROL GROUP.—Where 2 or more persons in control of the issuing corporation transfer stock of such corporation to the acquiring corporation and, after the transfer, the transferors are in control of the acquiring corporation, the person or persons in control of each corporation shall include each of the persons who so transfer stock.”

(B) Paragraph (3) of section 304(c) (as redesignated by paragraph (1)) is amended by striking out “paragraph (1)” and inserting in lieu thereof “this section”.

(3) DETERMINATION OF EARNINGS AND PROFITS.—Subparagraph (A) of section 304(b)(2) (relating to amount constituting dividend) is amended to read as follows:

“(A) WHERE SUBSECTION (a)(1) APPLIES.—In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subsection (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation.”

26 USC 306.

(b) APPLICATION OF SECTION 306 TO CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGES.—Subsection (c) of section 306 (defining section 306 stock) is amended by adding at the end thereof the following new paragraph:

“(3) CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.—The term ‘section 306 stock’ also includes any stock which is not common stock acquired in an exchange to which section 351 applied if receipt of money (in lieu of the stock) would have been treated as a dividend to any extent. In the case of such stock, rules similar to the rules of section 304(b)(2) shall apply for purposes of this section.”

26 USC 304 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers occurring after August 31, 1982, in taxable years ending after such date.

(2) APPROVAL BY FEDERAL RESERVE BOARD.—The amendments made by this section shall not apply to transfers pursuant to an application to form a BHC filed with the Federal Reserve Board before August 16, 1982, if the BHC was formed not later than the later of—

(A) the 90th day after the date of the last required approval of any regulatory authority to form such BHC, or

(B) January 1, 1983.

For purposes of this paragraph, the term “BHC” means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

12 USC 1841.

#### SEC. 227. APPLICATION OF ATTRIBUTION RULES FOR PURPOSES OF SECTIONS 306 AND 356(a)(2).

26 USC 306.

(a) APPLICATION FOR PURPOSES OF SECTION 306.—Subsection (c) of section 306 is amended by adding at the end thereof the following new paragraph:

“(4) APPLICATION OF ATTRIBUTION RULES FOR CERTAIN PURPOSES.—For purposes of paragraphs (1)(B)(ii) and (3), section 318(a) shall apply. For purposes of applying the preceding sentence to paragraph (3), sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein.”

26 USC 356.

(b) APPLICATION FOR PURPOSES OF SECTION 356(a)(2).—Paragraph (2) of section 356(a) (relating to treatment as dividend) is amended by inserting “(determined with the application of section 318(a))” after “distribution of a dividend”

(c) EFFECTIVE DATES.—

26 USC 306 note.

(1) SECTION 306.—The amendment made by subsection (a) shall apply to stock received after August 31, 1982, in taxable years ending after such date.

26 USC 356 note.

(2) SECTION 356.—The amendment made by subsection (b) shall apply to distributions after August 31, 1982, in taxable years ending after such date.

## SEC. 228. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES.

(a) GENERAL RULE.—Paragraph (2) of section 302(c) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraph: 26 USC 302.

“(C) SPECIAL RULE FOR WAIVERS BY ENTITIES.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to a distribution to any entity unless—

“(I) such entity and each related person meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

“(II) each related person agrees to be jointly and severally liable for any deficiency (including interest and additions to tax) resulting from an acquisition described in clause (ii) of subparagraph (A). In any case to which the preceding sentence applies, the second sentence of subparagraph (A) and subparagraph (B)(ii) shall be applied by substituting ‘distributee or any related person’ for ‘distributee’ each place it appears.

“(ii) DEFINITIONS.—For purposes of this subparagraph—

“(I) the term ‘entity’ means a partnership, estate, trust, or corporation; and

“(II) the term ‘related person’ means any person to whom ownership of stock in the corporation is (at the time of the distribution) attributable under section 318(a)(1) if such stock is further attributable to the entity under section 318(a)(3).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to distributions after August 31, 1982, in taxable years ending after such date. 26 USC 302 note.

## PART VI—METHODS OF ACCOUNTING

## SEC. 229. MODIFICATION OF REGULATIONS ON THE COMPLETED CONTRACT METHOD OF ACCOUNTING. 26 USC 451 note.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the income tax regulations relating to accounting for long-term contracts to—

(1) clarify the time at which a contract is to be considered completed,

(2) clarify when—

(A) one agreement will be treated as more than one contract, and

(B) two or more agreements will be treated as one contract, and

(3) properly allocate all costs which directly benefit, or are incurred by reason of, the extended period long-term contract activities of the taxpayer.

(b) EXTENDED PERIOD LONG-TERM CONTRACTS DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term “extended period long-term contract” means any long-term contract which the taxpayer estimates (at the time such contract is entered into) will not be completed within the 2-year period beginning on the contract commencement date of such contract.

**(2) CERTAIN CONSTRUCTION CONTRACTS.—**

(A) **IN GENERAL.**—The term “extended period long-term contract” does not include any construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(ii) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed \$25,000,000.

(B) **DETERMINATION OF TAXPAYER’S GROSS RECEIPTS.**—For purposes of subparagraph (A), the gross receipts of—

(i) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

(ii) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in subparagraph (A) is entered into shall be included in the gross receipts of the taxpayer for the period described in subparagraph (A). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(C) **CONTROLLED GROUP OF CORPORATIONS.**—The term “controlled group of corporations” has the meaning given to such term by section 1563(a), except that—

(i) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(3) **CONSTRUCTION CONTRACT.**—The term “construction contract” means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, improvements to real property.

(4) **CONTRACT COMMENCEMENT DATE.**—The term “contract commencement date” means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

**(c) EFFECTIVE DATES; SPECIAL RULES.—**

(1) **IN GENERAL.**—The modifications to regulations which are required to be made under paragraphs (1) and (2) of subsection (a) shall apply with respect to taxable years ending after December 31, 1982.

**(2) COST ALLOCATION.—**

(A) **IN GENERAL.**—Any modification to Income Tax Regulation 1.451-3 made under subsection (a)(3) which requires additional costs to be allocated to a contract shall apply only to the applicable percentage of such additional costs incurred in taxable years beginning after December 31, 1982, with respect to contracts entered into after such date.

26 USC 52.

Regulations.

(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in calendar year:	The applicable percentage is:
1983.....	33½%
1984.....	66⅔%
1985 or thereafter .....	100."

(3) **SPECIAL RULES.**—

(A) **TIME OF COMPLETION.**—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, solely by reason of any modification to regulations made under subsection (a)(1), shall be treated as having been completed on the first day of such taxable year.

(B) **AGGREGATION AND SEVERANCE.**—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982—

(i) solely by reason of any modification to regulations made under subsection (a)(2), or

(ii) solely by reason of any modifications to regulations made under both paragraphs (1) and (2) of subsection (a),

shall be treated as having been completed on the first day after December 31, 1982, on which any contract which was severed from such contract (by reason of the modifications made by subsection (a)(2)) is completed (determined after the application of any modifications to regulations made under subsection (a)(1)).

**SEC. 230. ANNUAL ACCRUAL METHOD OF ACCOUNTING EXTENDED TO CERTAIN PARTNERSHIPS.**

(a) **IN GENERAL.**—Section 447(g) (relating to certain annual accrual accounting methods) is amended— 26 USC 447.

(1) by inserting "or qualified partnership" after "corporation" each place it appears in paragraph (1),

(2) by amending paragraph (3) to read as follows:

"(3) **CERTAIN NONRECOGNITION TRANSFERS.**—For purposes of this subsection, if—

"(A) a corporation acquired substantially all the assets of a qualified farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, or

"(B) a qualified partnership acquired substantially all the assets of a qualified farming trade or business from one of its partners in a transaction to which section 721 applies, the transferee corporation or qualified partnership shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation or partnership computed its taxable income from such trade or business on an annual accrual method.", and

(3) by adding at the end thereof the following new paragraph:

"(4) **QUALIFIED PARTNERSHIP DEFINED.**—For purposes of this subsection—

“(A) **QUALIFIED PARTNERSHIP.**—The term ‘qualified partnership’ means a partnership which is engaged in a qualified farming trade or business and each of the partners of which is a corporation other than—

26 USC 1371.                   “(i) an electing small business corporation (within the meaning of section 1371(b)), or

                                  “(ii) a personal holding company (within the meaning of section 542(a)).

“(B) **QUALIFIED FARMING TRADE OR BUSINESS.**—The term ‘qualified farming trade or business’ means the trade or business of farming sugar cane.”.

26 USC 447 note.       (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

## PART VII—ORIGINAL ISSUE DISCOUNT

### SEC. 231. ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE.

(a) **IN GENERAL.**—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232 the following new section:

26 USC 1232A.       “SEC. 1232A. ORIGINAL ISSUE DISCOUNT.

                          “(a) **ORIGINAL ISSUE DISCOUNT ON BONDS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.**—

                          “(1) **GENERAL RULE.**—For purposes of this subtitle, there shall be included in the gross income of the holder of any bond having an original issue discount issued after July 1, 1982 (and which is a capital asset in the hands of the holder) an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such bond.

                          “(2) **EXCEPTIONS.**—Paragraph (1) shall not apply to—

                          “(A) **NATURAL PERSONS.**—Any obligation issued by a natural person.

                          “(B) **TAX-EXEMPT OBLIGATIONS.**—Any obligation if—

                                  “(i) the interest on such obligation is not includible in gross income under section 103, or

                                  “(ii) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

                          “(C) **SHORT-TERM GOVERNMENT OBLIGATIONS.**—Any short-term Government obligation (within the meaning of section 1232(a)(3)).

                          “(D) **UNITED STATES SAVINGS BONDS.**—Any United States savings bond.

                          “(3) **DETERMINATION OF DAILY PORTIONS.**—For purposes of paragraph (1), the daily portion of the original issue discount on any bond shall be determined by allocating to each day in any bond period its ratable portion of the increase during such bond period in the adjusted issue price of the bond. For purposes of the preceding sentence, the increase in the adjusted issue price for any bond period shall be an amount equal to the excess (if any) of—

                                  “(A) the product of—

  “(i) the adjusted issue price of the bond at the beginning of such bond period, and



“(ii) the yield to maturity (determined on the basis of compounding at the close of each bond period), over  
“(B) the sum of the amounts payable as interest on such bond during such bond period.

“(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any bond at the beginning of any bond period is the sum of—

“(A) the issue price of such bond, plus

“(B) the adjustments under this subsection to such issue price for all periods before the first day of such bond period.

“(5) BOND PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term ‘bond period’ means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the bond.

“(6) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, in the case of any purchase of a bond to which this subsection applies after its original issue, the daily portion shall not include an amount (determined at the time of purchase) equal to the excess (if any) of—

“(A) the cost of such bond incurred by the purchaser, over

“(B) the issue price of such bond, increased by the sum of the daily portions for such bond for all days before the date of purchase (computed without regard to this paragraph), divided by the number of days beginning on the date of such purchase and ending on the day before the stated maturity date.

“(7) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the inclusion under paragraph (1) for the taxable year does not accurately reflect the income of the holder, the proper amount of income shall be included for such taxable year (and appropriate adjustments shall be made in the amounts included for subsequent taxable years).

“(b) RATABLE INCLUSION RETAINED FOR CORPORATE BONDS ISSUED BEFORE JULY 2, 1982.—

“(1) GENERAL RULE.—There shall be included in the gross income of the holder of any bond issued by corporation after May 27, 1969, and before July 2, 1982 (and which is a capital asset in the hands of the holder)—

“(A) the ratable monthly portion of original issue discount, multiplied by

“(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such bond during the taxable year.

“(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

“(A) the original issue discount, divided by

“(B) the number of complete months from the date of original issue to the stated maturity date of the bond.

“(3) MONTH DEFINED.—For purposes of this subsection, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day). In any case where a bond is acquired on any day other than a day determined under the preceding sentence, the rat-

able monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the bond.

“(4) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of the bond, equal to the excess of—

“(A) the cost of such bond incurred by the holder, over

“(B) the issue price of such bond, increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such bond.

“(c) DEFINITIONS AND SPECIAL RULES.—

“(1) BOND INCLUDES OTHER EVIDENCES OF INDEBTEDNESS.—For purposes of this section, the term ‘bond’ means a bond, debenture, note, or certificate or other evidence of indebtedness.

“(2) PURCHASE DEFINED.—For purposes of this section, the term ‘purchase’ means any acquisition of a bond, but only if the basis of the bond is not determined in whole or in part by reference to the adjusted basis of such bond in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

“(3) ORIGINAL ISSUE DISCOUNT, ETC.—For purposes of this section, the terms ‘original issue discount’, ‘issue price’, and ‘date of original issue’ shall have the respective meanings given to such terms by section 1232(b).

“(4) EXCEPTIONS.—This section shall not apply to any holder—

“(A) who has purchased the bond at a premium, or

“(B) which is a life insurance company to which section 818(b) applies.

“(5) BASIS ADJUSTMENTS.—The basis of any bond in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.”

(b) DEDUCTION DETERMINED ON BASIS OF CONSTANT INTEREST RATE.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) ORIGINAL ISSUE DISCOUNT.—

“(1) IN GENERAL.—In the case of any bond issued after July 1, 1982, by an issuer (other than a natural person), the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

“(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(A) BOND.—The term ‘bond’ has the meaning given to such term by section 1232A(c)(1).

“(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1232A(a) (without regard to paragraphs (2)(B) and (6)

26 USC 1014.

26 USC 163.

thereof and without regard to the second sentence of section 1232(b)(1)).”

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 1232(a)(2) is amended—

26 USC 1232.

(A) by striking out “by a corporation after May 27, 1969” and inserting in lieu thereof “by a corporation after May 27, 1969, or by a government or political subdivision thereof after July 1, 1982”,

(B) by striking out “as provided in paragraph (3)(B)” and inserting in lieu thereof “without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)”, and

(C) by striking out the subparagraph heading and inserting in lieu thereof the following:

“(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969, AND GOVERNMENT BONDS ISSUED AFTER JULY 1, 1982.—”.

(2) Subparagraph (B) of section 1232(a)(2) is amended—

(A) by striking out “by a government or political subdivision thereof after December 31, 1954” and inserting in lieu thereof “by a government or political subdivision thereof after December 31, 1954, and on or before July 1, 1982”, and

(B) by striking out “GOVERNMENT BONDS” in the subparagraph heading and inserting in lieu thereof “GOVERNMENT BONDS ISSUED ON OR BEFORE JULY 1, 1982”.

(3) Subparagraph (D) of section 1232(a)(2) is amended by striking out “This section” and inserting in lieu thereof “This section and sections 1232A and 1232B”.

(4) Subsection (a) of section 1232 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232 the following:

“Sec. 1232A. Original issue discount.”

(e) TRANSITIONAL RULE.—For purposes of the amendments made by this section, any evidence of indebtedness issued pursuant to a written commitment which was binding on July 1, 1982, and at all times thereafter shall be treated as issued on July 1, 1982.

26 USC 1232A  
note.

SEC. 232. TAX TREATMENT OF STRIPPED BONDS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232A the following new section:

“SEC. 1232B. TAX TREATMENT OF STRIPPED BONDS.

26 USC 1232B.

“(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1232A(a) as a bond originally issued by a corporation on the purchase date and having an original issue discount equal to the excess (if any) of—

*Ante*, p. 496.

“(1) the stated redemption price at maturity (or, in the case of a coupon, the amount payable on the due date of such coupon), over

“(2) such bond’s or coupon’s ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

“(b) **TAX TREATMENT OF PERSON STRIPPING BOND.**—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

“(1) such person shall include in gross income an amount equal to the interest accrued on such bond before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person’s gross income),

“(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

“(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

“(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

“(c) **RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.**—If a bond issued at any time with interest coupons—

“(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

“(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1232(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1232(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

“(d) **SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.**—In the case of any obligation the interest on which is not includible in gross income under section 103 or is exempt from tax (without regard to the identity of the holder) under any other provision of law—

“(1) subsections (a) and (b)(1) shall not apply,

“(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

“(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

“(e) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

“(1) **BOND.**—The term ‘bond’ means a bond, debenture, note, or certificate or other evidence of indebtedness.

“(2) **STRIPPED BOND.**—The term ‘stripped bond’ means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

“(3) **STRIPPED COUPON.**—The term ‘stripped coupon’ means any coupon relating to a stripped bond.

“(4) **STATED REDEMPTION PRICE AT MATURITY.**—The term ‘stated redemption price at maturity’ has the meaning given such term by the third sentence of section 1232(b)(1).

“(5) **COUPON.**—The term ‘coupon’ includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

“(f) **REGULATION AUTHORITY.**—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, extendable maturities, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.”

(b) **CONFORMING AMENDMENT.**—Section 1232 is amended by striking out subsections (c) and (d).

26 USC 1232.

(c) **CLERICAL AMENDMENT.**—The table of sections for such part IV is amended by inserting after the item relating to section 1232A the following:

“Sec. 1232B. Tax treatment of stripped bonds.”

## PART VIII—OTHER BUSINESS PROVISIONS

### SEC. 233. TARGETED JOBS TAX CREDIT.

(a) **2-YEAR EXTENSION.**—Paragraph (3) of section 51(c) (relating to termination of credit for employment of certain new employees) is amended by striking out “1982” and inserting in lieu thereof “1984”.

95 Stat. 260.

(b) **QUALIFIED SUMMER YOUTH EMPLOYEE.**—Subsection (d) of section 51 (defining members of targeted groups) is amended—

(1) by striking out “or” at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof “, or”,

(3) by inserting after subparagraph (I) the following new subparagraph:

“(J) a qualified summer youth employee.”,

(4) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (13), (14), (15), and (16), respectively, and

(5) by inserting after paragraph (11) the following new paragraph:

“(12) **QUALIFIED SUMMER YOUTH EMPLOYEE.**—

“(A) **IN GENERAL.**—The term ‘qualified summer youth employee’ means an individual—

“(i) who performs services for the employer between May 1 and September 15,

“(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (as defined in paragraph (14)),

“(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(iii), and

“(iv) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

“(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

“(i) subsection (a)(1) shall be applied by substituting ‘85 percent’ for ‘50 percent’,

“(ii) subsections (a)(2) and (b)(3) shall not apply,

“(iii) subsection (b)(2) shall be applied by substituting ‘any 90-day period between May 1 and September 15’ for ‘the 1-year period beginning with the day the individual begins work for the employer’, and

“(iv) subsection (b)(4) shall be applied by substituting ‘\$3,000’ for ‘\$6,000’.

“(C) SPECIAL RULE FOR CONTINUED EMPLOYMENT FOR SAME EMPLOYER.—In the case of an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee, paragraph (14) shall be applied by substituting ‘certified’ for ‘hired by the employer’.”

26 USC 51.

(c) TERMINATION OF INVOLUNTARILY TERMINATED CETA EMPLOYEE AS MEMBER OF TARGETED GROUP.—Paragraph (10) of section 51(d) (relating to involuntarily terminated CETA employee) is amended by adding at the end thereof the following new sentence: “This paragraph shall not apply to any individual who begins work for the employer after December 31, 1982.”

(d) VOUCHER OR SCRIP PAYMENTS TO GENERAL RECIPIENTS IN QUALIFIED GENERAL ASSISTANCE PROGRAMS.—Subclause (II) of section 51(d)(6)(B)(i) (defining qualified general assistance programs) is amended by inserting before the comma the following: “or voucher or scrip”.

26 USC 51 note.

95 Stat. 260.

(e) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS; REPORTS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended—

(1) by inserting after “for fiscal year 1982 the sum of \$30,000,000” the following: “, and for fiscal years 1983 and 1984 such sums as may be necessary,”; and

(2) by inserting at the end thereof the following new sentence: “The Secretary of Labor shall each calendar year beginning with calendar year 1983 report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to the results of the testing conducted under subparagraph (A) during the preceding calendar year.”

95 Stat. 260.

(f) CERTIFICATIONS.—Effective only with respect to individuals who begin work for the taxpayer after May 11, 1982, subparagraph (A) of section 51(d)(15) (relating to special rules for certifications), as in effect before the amendments made by this Act, is amended by striking out “before the day” and inserting in lieu thereof “on or before the day”.

**(g) EFFECTIVE DATES.—**

26 USC 51 note.

(1) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to amounts paid or incurred after April 30, 1983, to individuals beginning work for the employer after such date.

(2) **SUBSECTION (d).**—The amendments made by subsection (d) shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date.

**SEC. 234. ACCELERATED PAYMENT OF INCOME TAX BY CORPORATIONS.****(a) INCREASE IN AMOUNT OF ESTIMATED TAX REQUIRED TO BE PAID.—**

(1) **IN GENERAL.**—Paragraph (1) of section 6655(b) (relating to amount of underpayment) is amended by striking out “80” each place it appears and inserting in lieu thereof “90”.

26 USC 6655.

(2) **CONFORMING AMENDMENT.**—Paragraph (3) of section 6655(d) (relating to exception to imposition of additional tax) is amended by striking out “80” and inserting in lieu thereof “90”.

**(b) ELIMINATION OF ELECTION WITH RESPECT TO PAYMENT OF UNPAID TAXES.—**

(1) **IN GENERAL.**—Section 6152 (relating to installment payments of tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

26 USC 6152.

“(a) **PRIVILEGE TO ELECT TO MAKE FOUR INSTALLMENT PAYMENTS BY DECEDENT’S ESTATE.**—A decedent’s estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

“(b) **DATES PRESCRIBED FOR PAYMENT OF FOUR INSTALLMENTS.**—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.”.

**(2) Conforming amendments.—**

(A) Paragraph (2) of section 832(e) is amended by striking out “, as if no election to make installment payments under section 6152 is made”.

26 USC 832.

(B) Subsection (b) of section 6081 is amended by striking out “or the first installment thereof required under section 6152”.

26 USC 6081.

**(C) Section 6164 is amended—**

26 USC 6164.

(i) by striking out the last sentence of subsection (c) and inserting in lieu thereof the following new sentence: “If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax.”; and

(ii) by striking out paragraph (2) of subsection (g) and inserting in lieu thereof the following new paragraph: “(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.”.

(c) **AMOUNT OF ADDITION TO TAX.**—Subsection (a) of section 6655 (relating to addition to tax) is amended to read as follows:

26 USC 6655.

“(a) ADDITION TO TAX.—Except as provided in subsections (d) and (e), in the case of any underpayment of tax by a corporation—

“(1) IN GENERAL.—There shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate established under section 6621 on the amount of the underpayment for the period of the underpayment.

“(2) SPECIAL RULE WHERE CORPORATION PAID 80 PERCENT OR MORE OF TAX.—In any case in which there would be no underpayment if subsection (b) were applied by substituting ‘80 percent’ for ‘90 percent’ each place it appears, the addition to tax under paragraph (1) shall be equal to 75 percent of the amount otherwise determined under paragraph (1).”

(d) ADDITIONAL EXCEPTION FROM PENALTY FOR UNDERPAYMENTS OF ESTIMATED INCOME TAX WHERE A CORPORATION HAS A RECURRING PATTERN OF SEASONAL INCOME.—

26 USC 6655.

(1) IN GENERAL.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively, and by inserting after subsection (d) the following new subsection:

“(e) ADDITIONAL EXCEPTION FOR RECURRING SEASONAL INCOME.—

“(1) IN GENERAL.—Notwithstanding the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds 90 percent of the amount determined under paragraph (2).

“(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any installment shall be determined in the following manner—

“(A) take the taxable income for all months during the taxable year preceding the filing month,

“(B) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

“(C) determine the tax on the amount determined under subparagraph (B), and

“(D) multiply the tax computed under subparagraph (C) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

“(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

“(B) FILING MONTH.—The term ‘filing month’ means the month in which the installment is required to be paid.

“(C) LIMITATION ON APPLICATION OF SUBSECTION.—This subsection shall only apply if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

“(D) REORGANIZATIONS, ETC.—The Secretary may by regulations provide for the determination of the base period



percentage in the case of reorganizations, new corporations, and other similar circumstances.”

(2) **TECHNICAL AMENDMENT.**—Subsection (f) of section 6655 (as redesignated by paragraph (1)) is amended by striking out “(d), and (h)” and inserting in lieu thereof “(d), (e), and (i)” 26 USC 6655.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 6655 note.

## Subtitle C—Pensions

### PART I—CONTRIBUTION AND LOAN LIMITS

#### SEC. 235. LOWER CONTRIBUTION AND BENEFIT LIMITS FOR CERTAIN ANNUITIES, ETC.

(a) **LIMIT ON ANNUAL DEFINED BENEFIT LOWERED FROM \$136,425 TO \$90,000; LIMIT ON ANNUAL DEFINED CONTRIBUTION LOWERED FROM \$45,475 TO \$30,000.**—

(1) **DEFINED BENEFIT PLANS.**—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plan) is amended by striking out “\$75,000” and inserting in lieu thereof “\$90,000”. 26 USC 415.

(2) **DEFINED CONTRIBUTION PLANS.**—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plan) is amended by striking out “\$25,000” and inserting in lieu thereof “\$30,000”.

(3) **CONFORMING AMENDMENTS.**—

(A) Subparagraph (C) of section 415(b)(2) is amended by striking out “\$75,000” each place it appears and inserting in lieu thereof “\$90,000”.

(B) The last sentence of paragraph (7) of section 415(b) is amended by striking out “by substituting ‘37,500’ for ‘75,000’” and inserting in lieu thereof “by substituting the greater of \$68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for ‘\$90,000’”.

(b) **COST-OF-LIVING ADJUSTMENTS.**—

(1) **ADJUSTMENT TO REFLECT ADJUSTMENTS MADE IN SOCIAL SECURITY BENEFIT PAYMENTS RATHER THAN PRIMARY INSURANCE AMOUNTS.**—Paragraph (1) of section 415(d) (relating to cost-of-living adjustments) is amended by striking out “primary insurance amounts” and inserting in lieu thereof “benefit amounts”.

(2) **FREEZE ON COST-OF-LIVING ADJUSTMENTS BEFORE JANUARY 1, 1986.**—

(A) **IN GENERAL.**—Subsection (d) of section 415 is amended by adding at the end thereof the following new paragraph:

“(3) **FREEZE ON ADJUSTMENT TO DEFINED CONTRIBUTION AND BENEFIT LIMITS.**—The Secretary shall not make any adjustment under subparagraph (A) or (B) of paragraph (1) with respect to any year beginning after December 31, 1982, and before January 1, 1986.”

(B) **CHANGE IN BASE PERIOD TO REFLECT CHANGE IN LIMITS AND FREEZE.**—Paragraph (2) of section 415(d) (relating to base periods) is amended by striking out “1974” and inserting in lieu thereof “1984”.

(3) **CONFORMING AMENDMENTS TO DECREASE IN LIMITS.**—Paragraph (1) of section 415(d) is amended—

(A) by striking out "\$75,000" in subparagraph (A) and inserting in lieu thereof "\$90,000", and

(B) by striking out "\$25,000" in subparagraph (B) and inserting in lieu thereof "\$30,000".

(c) LOWER LIMITS WHERE INDIVIDUAL IS COVERED BY BOTH DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN.—

(1) SUM OF DEFINED BENEFIT PLAN FRACTION AND DEFINED CONTRIBUTION PLAN FRACTION CANNOT EXCEED 1.25 FOR DOLLAR LIMITS AND 1.4 FOR PERCENTAGE LIMITS.—Paragraph (1) of section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "1.4" and inserting in lieu thereof "1.0".

(2) DEFINED BENEFIT AND CONTRIBUTION PLAN FRACTIONS.—

(A) DEFINED BENEFIT PLAN FRACTION.—Subparagraph (B) of section 415(e)(2) (defining defined benefit plan fraction) is amended to read as follows:

"(B) the denominator of which is the lesser of—

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (b)(1)(A) for such year, or

"(ii) the product of—

"(I) 1.4, multiplied by

"(II) the amount which may be taken into account under subsection (b)(1)(B) with respect to such individual under the plan for such year."

(B) DEFINED CONTRIBUTION PLAN FRACTION.—Subparagraph (B) of section 415(e)(3) (defining defined contribution plan fraction) is amended to read as follows:

"(B) the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior year of service with the employer:

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (c)(1)(A) for such year (determined without regard to subsection (c)(6)), or

"(ii) the product of—

"(I) 1.4, multiplied by—

"(II) the amount which may be taken into account under subsection (c)(1)(B) (or subsection (c)(7) or (8), if applicable) with respect to such individual under such plan for such year."

(d) TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—Section 415(e) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL TRANSITION RULE FOR DEFINED CONTRIBUTION FRACTION FOR YEARS ENDING AFTER DECEMBER 31, 1982.—

"(A) IN GENERAL.—At the election of the plan administrator, in applying paragraph (3) with respect to any year ending after December 31, 1982, the amount taken into account under paragraph (3)(B) with respect to each participant for all years ending before January 1, 1983, shall be an amount equal to the product of—

"(i) the amount determined under paragraph (3)(B) (as in effect for the year ending in 1982) for the year ending in 1982, multiplied by

"(ii) the transition fraction.

"(B) TRANSITION FRACTION.—The term 'transition fraction' means a fraction—

“(i) the numerator of which is the lesser of—

“(I) \$51,875, or

“(II) 1.4, multiplied by 25 percent of the compensation of the participant for the year ending in 1981, and

“(ii) the denominator of which is the lesser of—

“(I) \$41,500, or

“(II) 25 percent of the compensation of the participant for the year ending in 1981.”

(e) ACTUARIAL ADJUSTMENTS.—

(1) ACTUARIAL ADJUSTMENTS FOR EARLY RETIREMENT MADE BY REFERENCE TO AGE 62 (INSTEAD OF 55).—Subparagraph (C) of section 415(b)(2) (relating to adjustments where benefit begins before age 55) is amended by striking out “55” each place it appears and inserting in lieu thereof “62”.

26 USC 415.

(2) \$75,000 FLOOR ON ACTUARIAL ADJUSTMENT WHERE BENEFIT BEGINS BEFORE 62.—Subparagraph (C) of section 415(b)(2) is amended by adding at the end thereof the following new sentence: “The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below—

“(i) if the benefit begins at or after age 55, \$75,000, or

“(ii) if the benefit begins before age 55, the amount which is the equivalent of the \$75,000 limitation for age 55.”

(3) ACTUARIAL ADJUSTMENTS WHERE BENEFIT BEGINS AFTER AGE 65.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

“(D) ADJUSTMENT TO \$90,000 LIMITATION WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the \$90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 65.”

(4) LIMITATIONS ON ACTUARIAL ADJUSTMENTS UNDER SECTION 415(b)(2).—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

“(E) LIMITATION ON CERTAIN ASSUMPTIONS.—

“(i) For purposes of adjusting any benefit under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

“(ii) For purposes of adjusting any benefit under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan.

“(iii) For purposes of adjusting any benefit under subparagraph (B), (C), or (D), no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect.”

(f) LIMITATIONS ON DEDUCTIBILITY OF CONTRIBUTIONS.—Section 404 (relating to contributions of an employer to an employee's trust, etc.) is amended by adding at the end thereof the following new subsection:

95 Stat. 293.

“(j) SPECIAL RULES RELATING TO APPLICATION WITH SECTION 415.—

“(1) NO DEDUCTION IN EXCESS OF SECTION 415 LIMITATION.—In computing the amount of any deduction allowable under paragraph (1), (2), (3), (4), (7), or (10) of subsection (a) for any year—

26 USC 415.

“(A) in the case of a defined benefit plan, there shall not be taken into account any benefits for any year in excess of any limitation on such benefits under section 415 for such year, or

“(B) in the case of a defined contribution plan, the amount of any contributions otherwise taken into account shall be reduced by any annual additions in excess of the limitation under section 415 for such year.

“(2) NO ADVANCE FUNDING OF COST-OF-LIVING ADJUSTMENTS.—For purposes of clause (i), (ii) or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, there shall not be taken into account any adjustments under section 415(d)(1) for any year before the year for which such adjustment first takes effect.”

26 USC 415 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) NEW PLANS.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section shall apply to years ending after July 1, 1982.

(B) EXISTING PLANS.—

(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section shall apply to years beginning after December 31, 1982.

(ii) PLAN REQUIREMENTS.—A plan shall not be treated as failing to meet the requirements of section 401(a)(16) of the Internal Revenue Code of 1954 for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

(2) AMENDMENTS RELATED TO COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to adjustments for years beginning after December 31, 1982.

(B) ADJUSTMENT PROCEDURES.—The amendments made by subsections (b)(1) and (b)(2)(B) shall apply to adjustments for years beginning after December 31, 1985.

(3) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1954 for the last year beginning before January 1, 1983, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of the Internal Revenue Code of 1954 (as amended by the Tax Equity and Fiscal Responsibility Act of 1982) does not exceed 1.0 for such year.

(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

*Ante*, p. 506.

(A) **IN GENERAL.**—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

(B) **CURRENT ACCRUED BENEFIT DEFINED.**—

(i) **IN GENERAL.**—For purposes of this paragraph, the term “current accrued benefit” means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act).

26 USC 415.

(ii) **SPECIAL RULE.**—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after July 1, 1982, and

(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account.

(5) **SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.**—

In the case of a plan maintained on the date of the enactment of this Act pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section and section 253 (relating to age 70½) shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1986.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section and section 253 shall not be treated as a termination of such collective bargaining agreement.

**SEC. 236. LOANS TREATED AS DISTRIBUTIONS.**

(a) **GENERAL RULE.**—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

95 Stat. 278.

“(p) **LOANS TREATED AS DISTRIBUTIONS.**—For purposes of this section—

“(1) **TREATMENT AS DISTRIBUTIONS.**—

“(A) **LOANS.**—If during any taxable year a participant or beneficiary receives (directly or indirectly) any amount as a loan from a qualified employer plan, such amount shall be treated as having been received by such individual as a distribution under such plan.

“(B) ASSIGNMENTS OR PLEDGES.—If during any taxable year a participant or beneficiary assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified employer plan, such portion shall be treated as having been received by such individual as a loan from such plan.

“(2) EXCEPTION FOR CERTAIN LOANS.—

“(A) GENERAL RULE.—Paragraph (1) shall not apply to any loan to the extent that such loan (when added to the outstanding balance of all other loans from such plan whether made on, before, or after August 13, 1982), does not exceed the lesser of—

“(i) \$50,000, or

“(ii)  $\frac{1}{2}$  of the present value of the nonforfeitable accrued benefit of the employee under the plan (but not less than \$10,000).

“(B) REQUIREMENT THAT LOAN BE REPAYABLE WITHIN 5 YEARS.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to any loan unless such loan, by its terms, is required to be repaid within 5 years.

“(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire, construct, reconstruct, or substantially rehabilitate any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the participant or a member of the family (within the meaning of section 267(c)(4)) of the participant.

“(C) RELATED EMPLOYERS AND RELATED PLANS.—For purposes of this paragraph—

“(i) the rules of subsections (b), (c), and (m) of section 414 shall apply, and

“(ii) all plans of an employer (determined after the application of such subsections) shall be treated as 1 plan.

“(3) QUALIFIED EMPLOYER PLAN, ETC.—For purposes of this subsection, the term ‘qualified employer plan’ means any plan which was (or was determined to be) a qualified employer plan (as defined in section 219(e)(3) without regard to subparagraph (D) thereof). For purposes of this subsection, such term includes any government plan (as defined in section 219(e)(4)).

“(4) SPECIAL RULES FOR LOANS, ETC., FROM CERTAIN CONTRACTS.—For purposes of this subsection, any amount received as a loan under a contract purchased under a qualified employer plan (and any assignment or pledge with respect to such a contract) shall be treated as a loan under such employer plan.”

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (m) of section 72 is amended by striking out paragraphs (4) and (8).

(2) Subparagraph (A) of section 72(o)(3) is amended by striking out “subsection (m)(4) and (8)” and inserting in lieu thereof “subsection (p)”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans, assignments, and pledges made after August 13,

26 USC 267.

95 Stat. 284.

26 USC 72.

95 Stat. 278.

26 USC 72 note.

1982. For purposes of the preceding sentence, the outstanding balance of any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as an amount received as a loan on the date of such renegotiation, extension, renewal, or revision.

**(2) EXCEPTION FOR CERTAIN LOANS USED TO REPAY OUTSTANDING OBLIGATIONS.—**

(A) **IN GENERAL.**—Any qualified refunding loan shall not be treated as a distribution by reason of the amendments made by this section to the extent such loan is repaid before August 14, 1983.

(B) **QUALIFIED REFUNDING LOAN.**—For purposes of subparagraph (A), the term “qualified refunding loan” means any loan made after August 13, 1982, and before August 14, 1983, to the extent such loan is used to make a required principal payment.

(C) **REQUIRED PRINCIPAL PAYMENT.**—For purposes of subparagraph (B), the term “required principal payment” means any principal repayment on a loan made under the plan which was outstanding on August 13, 1982, if such repayment is required to be made after August 13, 1982, and before August 14, 1983.

## **PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES**

### **SEC. 237. REPEAL OF SPECIAL QUALIFICATION REQUIREMENTS.**

(a) **GENERAL RULE.**—Subsection (d) of section 401 (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended—

(1) by striking out paragraphs (1) through (7), and

(2) by redesignating paragraphs (9), (10), and (11) as paragraphs (1), (2), and (3), respectively.

(b) **REPEAL OF LIMITATIONS ON AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT AND ON CERTAIN DEFINED BENEFIT PLANS.**—Paragraphs (17) and (18) of section 401(a) are hereby repealed.

(c) **REPEAL OF EXCISE TAX ON EXCESS CONTRIBUTIONS FOR SELF-EMPLOYED INDIVIDUALS.**—

(1) Section 4972 (relating to tax on excess contributions for self-employed individuals) is hereby repealed. 26 USC 4972.

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4972.

(d) **PENALTY FOR PREMATURE WITHDRAWALS LIMITED TO KEY EMPLOYEES IN TOP-HEAVY PLANS.**—

(1) Subparagraph (A) of section 72(m)(5) is amended—

26 USC 72.

(A) by striking out “an owner-employee” the first place it appears and inserting in lieu thereof “a key employee”;

(B) by striking out “while he was an owner-employee” and inserting in lieu thereof “while he was a key employee in a top-heavy plan”, and

(C) by striking out “an owner-employee” in clause (ii) and inserting in lieu thereof “a key employee”.

(2) Paragraph (5) of section 72(m) is amended by adding at the end thereof the following new subparagraph:

“(C) For purposes of this paragraph, the terms ‘key employee’ and ‘top-heavy plan’ have the same meanings as when used in section 416.”

95 Stat. 284.

(3) Paragraph (6) of section 72(m) is amended by striking out “except in applying paragraph (5).”

(e) CONFORMING AMENDMENTS.—

26 USC 401.

(1) Paragraph (10) of section 401(a) is amended to read as follows:

“(10) OTHER REQUIREMENTS.—

“(A) PLANS BENEFITING OWNER-EMPLOYEES.—In the case of any plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in subsection (c)(3)), a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of subsection (d) are also met.”

26 USC 404.

(2) Paragraph (2) of section 404(a) is amended—

(A) by striking out “(8), (11)” and inserting in lieu thereof “(8), (9), (11)”, and

(B) by striking out “section 401(a)(9), (10), (17), and (18), and of section 401(d) (other than paragraph (1))” and inserting in lieu thereof “section 401(a)(10) and of section 401(d)”.

26 USC 408.

(3)(A) Paragraph (2) of section 408(a) (defining individual retirement account) is amended by striking out “as defined in section 401(d)(1)” and inserting in lieu thereof “as defined in subsection (n)”.

(B) Section 408 is amended by redesignating the subsection relating to cross references as subsection (o) and by inserting immediately before such subsection the following new subsection:

“(n) BANK.—For purposes of subsection (a)(2), the term ‘bank’ means—

“(1) any bank (as defined in section 581),

12 USC 1752.

“(2) an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), and

“(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.”

**SEC. 238. REPEAL OF SPECIAL LIMITATIONS ON DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS AND SUBCHAPTER S CORPORATIONS.**

(a) **REPEAL OF LIMIT OF LOWER OF \$15,000 OR 15 PERCENT OF EARNED INCOME.**—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended to read as follows:

“(e) **CONTRIBUTIONS ALLOCABLE TO LIFE INSURANCE PROTECTION FOR SELF-EMPLOYED INDIVIDUALS.**—In the case of a self-employed individual described in section 401(c)(1), contributions which are allocable (determined under regulations prescribed by the Secretary) to the purchase of life, accident, health, or other insurance shall not be taken into account under this section.”

(b) **REPEAL OF LIMITATIONS ON DEFINED BENEFIT PLANS.**—Subsection (j) of section 401 (relating to defined benefit plans providing benefits for self-employed individuals and shareholder-employees) is hereby repealed.

26 USC 401.



(c) **REPEAL OF LIMITATIONS APPLICABLE TO SUBCHAPTER S CORPORATIONS.**—Section 1379 is amended—

26 USC 1379.

(1) by striking out subsections (a) and (b), and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(d) **TECHNICAL AMENDMENTS.**—

(1) Paragraph (1) of section 401(c)(1) (defining employee) is amended to read as follows:

26 USC 401.

“(1) **SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.**—

“(A) **IN GENERAL.**—The term ‘employee’ includes, for any taxable year, an individual who is a self-employed individual for such taxable year.

“(B) **SELF-EMPLOYED INDIVIDUAL.**—The term ‘self-employed individual’ means, with respect to any taxable year, an individual who has earned income (as defined in paragraph (2)) for such taxable year. To the extent provided in regulations prescribed by the Secretary, such term also includes, for any taxable year—

“(i) an individual who would be a self-employed individual within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

“(ii) an individual who has been a self-employed individual within the meaning of the preceding sentence for any prior taxable year.”

(2) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out “and” at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof “, and”, and by adding at the end thereof the following new clause:

“(v) with regard to the deductions allowed by sections 404 and 405(c) to the taxpayer.”

(3) Subsection (j) of section 408 is amended to read as follows:

26 USC 408.

“(j) **INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.**—In the case of any simplified employee pension, subsections (a)(1) and (b)(2) of this section shall be applied by increasing the \$2,000 amounts contained therein by the amount of the limitation in effect under section 415(c)(1)(A).”

(4)(A) Paragraph (6) of section 408(k) is hereby repealed.

(B) Paragraph (1) of section 408(k) is amended by striking out “(5), and (6)” and inserting in lieu thereof “and (5)”.

(C) Subparagraph (C) of section 408(k)(3) is amended to read as follows:

“(C) **CONTRIBUTIONS MUST BEAR UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.**—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first \$200,000) of each employee maintaining a simplified employee pension.”

(5) Paragraph (5) of section 415(c) (relating to application with section 404(e)) is hereby repealed.

26 USC 415.

**SEC. 239. ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.**

26 USC 101.

Paragraph (3) of section 101(b) (relating to self-employed individual not considered as employee) is amended to read as follows:

“(3) **TREATMENT OF SELF-EMPLOYED INDIVIDUALS.**—For purposes of this subsection—

“(A) **SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED EMPLOYEE.**—Except as provided in subparagraph (B), the term ‘employee’ does not include a self-employed individual described in section 401(c)(1).

“(B) **SPECIAL RULE FOR CERTAIN LUMP SUM DISTRIBUTIONS.**—In the case of any lump sum distribution described in the second sentence of paragraph (2)(B), the term ‘employee’ includes a self-employed individual described in section 401(c)(1).”

**SEC. 240. SPECIAL RULES FOR TOP-HEAVY PLANS.**

(a) **GENERAL RULE.**—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

26 USC 416.

**“SEC. 416. SPECIAL RULES FOR TOP-HEAVY PLANS.**

“(a) **GENERAL RULE.**—A trust shall not constitute a qualified trust under section 401(a) for any plan year if the plan of which it is a part is a top-heavy plan for such plan year unless such plan meets—

“(1) the vesting requirements of subsection (b),

“(2) the minimum benefit requirements of subsection (c), and

“(3) the limitation on compensation requirement of subsection (d).

“(b) **VESTING REQUIREMENTS.**—

“(1) **IN GENERAL.**—A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

“(A) **3-YEAR VESTING.**—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

“(B) **6-YEAR GRADED VESTING.**—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

“Years of service	The nonforfeitable percentage is:
2.....	20
3.....	40
4.....	60
5.....	80
6 or more.....	100

“(2) **CERTAIN RULES MADE APPLICABLE.**—Except to the extent inconsistent with the provisions of this subsection, the rules of section 411 shall apply for purposes of this subsection.

“(c) **PLAN MUST PROVIDE MINIMUM BENEFITS.**—

“(1) **DEFINED BENEFIT PLANS.**—

“(A) **IN GENERAL.**—A defined benefit plan meets the requirements of this subsection if the accrued benefit

derived from employer contributions of each participant who is a non-key employee, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's average compensation for years in the testing period.

"(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A), the term 'applicable percentage' means the lesser of—

"(i) 2 percent multiplied by the number of years of service with the employer, or

"(ii) 20 percent.

"(C) **YEARS OF SERVICE.**—For purposes of this paragraph—

"(i) **IN GENERAL.**—Except as provided in clause (ii), years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a).

26 USC 411.

"(ii) **EXCEPTION FOR YEARS DURING WHICH PLAN WAS NOT TOP-HEAVY.**—A year of service with the employer shall not be taken into account under this paragraph if—

"(I) the plan was not a top-heavy plan for any plan year ending during such year of service, or

"(II) such year of service was completed in a plan year beginning before January 1, 1984.

"(D) **AVERAGE COMPENSATION FOR HIGH 5 YEARS.**—For purposes of this paragraph—

"(i) **IN GENERAL.**—A participant's testing period shall be the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) **YEAR MUST BE INCLUDED IN YEAR OF SERVICE.**—The years taken into account under clause (i) shall be properly adjusted for years not included in a year of service.

"(iii) **CERTAIN YEARS NOT TAKEN INTO ACCOUNT.**—Except to the extent provided in the plan, a year shall not be taken into account under clause (i) if—

"(I) such year ends in a plan year beginning before January 1, 1984, or

"(II) such year begins after the close of the last year in which the plan was a top-heavy plan.

"(E) **ANNUAL RETIREMENT BENEFIT.**—For purposes of this paragraph, the term 'annual retirement benefit' means a benefit payable annually in the form of a single life annuity (with no ancillary benefits) beginning at the normal retirement age under the plan.

"(2) **DEFINED CONTRIBUTION PLANS.**—

"(A) **IN GENERAL.**—A defined contribution plan meets the requirements of the subsection if the employer contribution for the year for each participant who is a non-key employee is not less than 3 percent of such participant's compensation (within the meaning of section 415).

"(B) **SPECIAL RULE WHERE MAXIMUM CONTRIBUTION LESS THAN 3 PERCENT.**—

"(i) **IN GENERAL.**—The percentage referred to in subparagraph (A) for any year shall not exceed the percentage at which contributions are made (or required to be made) under the plan for the year for the key

employee for whom such percentage is the highest for the year.

“(ii) DETERMINATION OF PERCENTAGE.—The determination referred to in clause (i) shall be determined for each key employee by dividing the contributions for such employee by so much of his total compensation for the year as does not exceed \$200,000.

“(iii) TREATMENT OF AGGREGATION GROUPS.—

“(I) For purposes of this subparagraph, all defined contribution plans required to be included in an aggregation group under subsection (g)(2)(A)(i) shall be treated as one plan.

“(II) This subparagraph shall not apply to any plan required to be included in an aggregation group if such plan enables a defined benefit plan required to be included in such group to meet the requirements of section 401(a)(4) or 410.

“(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, any employer contribution attributable to a salary reduction or similar arrangement shall not be taken into account.

“(d) NOT MORE THAN \$200,000 IN ANNUAL COMPENSATION TAKEN INTO ACCOUNT.—

“(1) IN GENERAL.—A plan meets the requirements of this subsection if the annual compensation of each employee taken into account under the plan does not exceed the first \$200,000.

“(2) COST-OF-LIVING ADJUSTMENTS.—The Secretary shall annually adjust the \$200,000 amount contained in paragraph (1) of this subsection and in clause (ii) of subsection (c)(2)(B) in the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A).

“(e) PLAN MUST MEET REQUIREMENTS WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS.—A top-heavy plan shall not be treated as meeting the requirement of subsection (b) or (c) unless such plan meets such requirement without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

“(f) COORDINATION WHERE EMPLOYER HAS 2 OR MORE PLANS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section where the employer has 2 or more plans including (but not limited to) regulations to prevent inappropriate omissions or require duplication of minimum benefits or contributions.

“(g) TOP-HEAVY PLAN DEFINED.—For purposes of this section—

“(1) IN GENERAL.—

“(A) PLANS NOT REQUIRED TO BE AGGREGATED.—Except as provided in subparagraph (B), the term ‘top-heavy plan’ means, with respect to any plan year—

“(i) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60 percent of the present value of the cumulative accrued benefits under the plan for all employees, and

“(ii) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key

26 USC 401, 410.

26 USC 1401  
et seq.  
26 USC 3101  
et seq.  
42 USC 401.

employees under the plan exceeds 60 percent of the aggregate of the accounts of all employees under such plan.

“(B) AGGREGATED PLANS.—Each plan of an employer required to be included in an aggregation group shall be treated as a top-heavy plan if such group is a top-heavy group.

“(2) AGGREGATION.—For purposes of this subsection—

“(A) AGGREGATION GROUP.—

“(i) REQUIRED AGGREGATION.—The term ‘aggregation group’ means—

“(I) each plan of the employer in which a key employee is a participant, and

“(II) each other plan of the employer which enables any plan described in subclause (I) to meet the requirements of section 401(a)(4) or 410.

26 USC 401, 410.

“(ii) PERMISSIVE AGGREGATION.—The employer may treat any plan not required to be included in an aggregation group under clause (i) as being part of such group if such group would continue to meet the requirements of sections 401(a)(4) and 410 with such plan being taken into account.

“(B) TOP-HEAVY GROUP.—The term ‘top-heavy group’ means any aggregation group if—

“(i) the sum (as of the determination date) of—

“(I) the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group, and

“(II) the aggregate of the accounts of key employees under all defined contribution plans included in such group,

“(ii) exceeds 60 percent of a similar sum determined for all employees.

“(3) DISTRIBUTIONS DURING LAST 5 YEARS TAKEN INTO ACCOUNT.—For purposes of determining—

“(A) the present value of the cumulative accrued benefit for any employee, or

“(B) the amount of the account of any employee, such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 5-year period ending on the determination date.

“(4) OTHER SPECIAL RULES.—For purposes of this subsection—

“(A) ROLLOVER CONTRIBUTIONS TO PLAN NOT TAKEN INTO ACCOUNT.—Except to the extent provided in regulations, any rollover contribution (or similar transfer) initiated by the employee and made after December 31, 1983, to a plan shall not be taken into account with respect to the transferee plan for purposes of determining whether such plan is a top-heavy plan (or whether any aggregation group which includes such plan is a top-heavy group).

“(B) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE CEASES TO BE KEY EMPLOYEE.—If any individual is a non-key employee with respect to any plan for any plan year, but such individual was a key employee with respect to such plan for any prior plan year, any accrued benefit for such

employee (and the account of such employee) shall not be taken into account.

“(C) DETERMINATION DATE.—The term ‘determination date’ means, with respect to any plan year—

“(i) the last day of the preceding plan year, or

“(ii) in the case of the first plan year of any plan, the last day of such plan year.

“(D) YEARS.—To the extent provided in regulations, this section shall be applied on the basis of any year specified in such regulations in lieu of plan years.

“(h) ADJUSTMENTS IN SECTION 415 LIMITS FOR TOP-HEAVY PLANS.—

*Ante*, p. 506.

“(1) IN GENERAL.—In the case of any top-heavy plan, paragraphs (2)(B) and (3)(B) of section 415(e) shall be applied by substituting ‘1.0’ for ‘1.25’.

“(2) EXCEPTION WHERE BENEFITS FOR KEY EMPLOYEES DO NOT EXCEED 90 PERCENT OF TOTAL BENEFITS AND ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraphs (A) and (B) of this paragraph are met with respect to such plan.

“(A) MINIMUM BENEFIT REQUIREMENTS.—

“(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

“(ii) MODIFICATIONS.—For purposes of clause (i)—

“(I) paragraph (1)(B) of subsection (c) shall be applied by substituting ‘3 percent’ for ‘2 percent’, and by increasing (but not by more than 10 percentage points) 20 percent by 1 percentage point for each year for which such plan was taken into account under this subsection, and

“(II) paragraph (2)(A) shall be applied by substituting ‘4 percent’ for ‘3 percent’.

“(B) BENEFITS FOR KEY EMPLOYEES CANNOT EXCEED 90 PERCENT OF TOTAL BENEFITS.—A plan meets the requirements of this subparagraph if such plan would not be a top-heavy plan if ‘90 percent’ were substituted for ‘60 percent’ each place it appears in paragraphs (1)(A) and (2)(B) of subsection (g).

“(3) TRANSITION RULE.—If, but for this paragraph, paragraph (1) would begin to apply with respect to any top-heavy plan, the application of paragraph (1) shall be suspended with respect to any individual so long as there are no—

“(A) employer contributions, forfeitures, or voluntary nondeductible contributions allocated to such individual, or

“(B) accruals for such individual under the defined benefit plan.

“(4) COORDINATION WITH TRANSITIONAL RULE UNDER SECTION 415.—In the case of any top-heavy plan to which paragraph (1) applies, section 415(e)(6)(B)(i) shall be applied by substituting ‘\$41,500’ for ‘\$51,875’.

“(i) DEFINITIONS.—For purposes of this section—

“(1) KEY EMPLOYEE.—

“(A) IN GENERAL.—The term ‘key employee’ means any participant in an employer plan who, at any time during the plan year or any of the 4 preceding plan years, is—

“(i) an officer of the employer,

“(ii) 1 of the 10 employees owning (or considered as owning within the meaning of section 318) the largest interests in the employer,

26 USC 318.

“(iii) a 5-percent owner of the employer, or

“(iv) a 1-percent owner of the employer having an annual compensation from the employer of more than \$150,000.

For purposes of clause (i), no more than 50 employees (or, if lesser, the greater of 3 or 10 percent of the employees) shall be treated as officers.

“(B) PERCENTAGE OWNERS.—

“(i) 5-PERCENT OWNER.—For purposes of this paragraph, the term ‘5-percent owner’ means—

“(I) if the employer is a corporation, any person who owns (or is considered as owning within the meaning of section 318) more than 5 percent of the outstanding stock of the corporation or stock possessing more than 5 percent of the total combined voting power of all stock of the corporation, or

“(II) if the employer is not a corporation, any person who owns more than 5 percent of the capital or profits interest in the employer.

“(ii) 1-PERCENT OWNER.—For purposes of this paragraph, the term ‘1-percent owner’ means any person who would be described in clause (i) if ‘1 percent’ were substituted for ‘5 percent’ each place it appears in clause (i).

“(iii) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of this subparagraph and subparagraph (A)(ii)(II)—

“(I) subparagraph (C) of section 318(a)(2) shall be applied by substituting ‘5 percent’ for ‘50 percent’, and

“(II) in the case of any employer which is not a corporation, ownership in such employer shall be determined in accordance with regulations prescribed by the Secretary which shall be based on principles similar to the principles of section 318 (as modified by subclause (I)).

“(C) AGGREGATION RULES DO NOT APPLY FOR PURPOSES OF DETERMINING 5-PERCENT OR 1-PERCENT OWNERS.—The rules of subsections (b), (c), and (m) of section 414 shall not apply for purposes of determining ownership in the employer.

“(2) NON-KEY EMPLOYEE.—The term ‘non-key employee’ means any employee who is not a key employee.

“(3) SELF-EMPLOYED INDIVIDUALS.—In the case of a self-employed individual described in section 401(c)(1)—

“(A) such individual shall be treated as an employee, and

“(B) such individual’s earned income (within the meaning of section 401(c)(2)) shall be treated as compensation.

“(4) TREATMENT OF EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—The requirements of subsections (b), (c), and (d) shall not apply with respect to any employee included in a unit of employees covered by an agreement which the Secre-

tary of Labor finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

“(5) TREATMENT OF BENEFICIARIES.—The terms ‘employee’ and ‘key employee’ include their beneficiaries.

“(6) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—

“(A) TREATMENT AS DEFINED CONTRIBUTION PLANS.—A simplified employee pension shall be treated as a defined contribution plan.

“(B) ELECTION TO HAVE DETERMINATIONS BASED ON EMPLOYER CONTRIBUTIONS.—In the case of a simplified employee pension, at the election of the employer, paragraphs (1)(A)(ii) and (2)(B) of subsection (g) shall be applied by taking into account aggregate employer contributions in lieu of the aggregate of the accounts of employees.”

*Ante*, p. 512.

(b) QUALIFICATION REQUIREMENTS.—Paragraph (10) of section 401(a) (relating to other requirements) is amended by adding at the end thereof the following new subparagraph:

“(B) TOP-HEAVY PLANS.—

“(i) IN GENERAL.—In the case of any top-heavy plan, a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of section 416 are met.

“(ii) PLANS WHICH MAY BECOME TOP-HEAVY.—Except to the extent provided in regulations, a trust forming part of a plan (whether or not a top-heavy plan) shall constitute a qualified trust under this section only if such plan contains provisions—

“(I) which will take effect if such plan becomes a top-heavy plan, and

“(II) which meet the requirements of section 416.”

(c) TECHNICAL AMENDMENTS.—

26 USC 414.

(1) Subsections (b) and (c) of section 414 (relating to employees of controlled groups) are each amended by striking out “and 415” and inserting in lieu thereof “415, and 416”.

(2) Paragraph (4) of section 414(m) (relating to employees of an affiliated service group) is amended by striking out “and 415” in subparagraph (B), and inserting in lieu thereof “415, and 416”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 416. Special rules for top-heavy plans.”

26 USC 416 note.

SEC. 241. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to years beginning after December 31, 1983.

(b) ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.—The amendment made by section 239 shall apply with respect to decedents dying after December 31, 1983.



**PART III—OTHER REQUIREMENTS****SEC. 242. REQUIRED DISTRIBUTIONS FOR QUALIFIED PLANS.**

(a) **GENERAL RULE.**—Paragraph (9) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

26 USC 401.

**“(9) REQUIRED DISTRIBUTIONS.—**

**“(A) BEFORE DEATH.**—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee—

**“(i) either will be distributed to him not later than his taxable year in which he attains age 70½ or, in the case of an employee other than a key employee who is a participant in a top-heavy plan, in which he retires, whichever is the later, or**

**“(ii) will be distributed, commencing not later than such taxable year—**

**“(I) in accordance with regulations prescribed by the Secretary, over the life of such employee or over the lives of such employee and his spouse, or**

**“(II) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.**

**“(B) AFTER DEATH.**—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that if—

**“(i) an employee dies before his entire interest has been distributed to him, or**

**“(ii) distribution has been commenced in accordance with subparagraph (A)(ii) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse,**

his entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if the distribution of the interest of the employee has commenced and such distribution is for a term certain over a period permitted under subparagraph (A)(ii)(II).”

**(b) EFFECTIVE DATE.—**

26 USC 401 note.

**(1) IN GENERAL.**—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1983.

**(2) TRANSITION RULE.**—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a), by reason of distributions under a designation (before January 1, 1984) by any employee of a method of distribution—

**(A) which does not meet the requirements of such paragraph (9), but**

**(B) which would not have disqualified such trust under paragraph (9) of section 401(a) of such Code as in effect before the amendment made by subsection (a).**

**SEC. 243. REQUIRED DISTRIBUTIONS IN CASE OF INDIVIDUAL RETIREMENT PLANS.**

**(a) REQUIRED DISTRIBUTIONS AFTER DEATH.—**

26 USC 408.

(1) **INDIVIDUAL RETIREMENT ACCOUNTS.**—Paragraph (7) of section 408(a) (defining individual retirement account) is amended to read as follows:

“(7) If—

“(A) an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or

“(B) distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of the surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6).”

(2) **INDIVIDUAL RETIREMENT ANNUITIES.**—Paragraph (4) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

“(4) If—

“(A) the owner dies before his entire interest has been distributed to him, or

“(B) distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3).”

(b) **TREATMENT OF INHERITED INDIVIDUAL RETIREMENT PLANS.**—

(1) **DENIAL OF ROLLOVER TREATMENT.**—

(A) Paragraph (3) of section 408(d) (defining rollover contributions) is amended by adding at the end thereof the following new subparagraph:

“(C) **DENIAL OF ROLLOVER TREATMENT FOR INHERITED ACCOUNTS, ETC.**—

“(i) **IN GENERAL.**—In the case of an inherited individual retirement account or individual retirement annuity—

“(I) this paragraph shall not apply to any amount received by an individual from such an account or annuity (and no amount transferred from such account or annuity to another individual retirement account or annuity shall be excluded from gross income by reason of such transfer), and

“(II) such inherited account or annuity shall not be treated as an individual retirement account or annuity for purposes of determining whether any other amount is a rollover contribution.

“(ii) **INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.**—An individual retirement account or indi-

vidual retirement annuity shall be treated as inherited if—

“(I) the individual for whose benefit the account or annuity is maintained acquired such account by reason of the death of another individual, and

“(II) such individual was not the surviving spouse of such other individual.”

(B) Subparagraph (C) of section 409(b)(3) (relating to roll-over into an individual retirement account or annuity or a qualified plan) is amended by adding at the end thereof the following new sentence: “This subparagraph shall not apply to any retirement bond if such bond is acquired by the owner by reason of the death of another individual and the owner was not the surviving spouse of such other individual.”

26 USC 409.

(2) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

95 Stat. 274.

“(4) DENIAL OF DEDUCTION FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).”

(c) EFFECTIVE DATES.—

26 USC 408 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply in the case of individuals dying after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

#### SEC. 244. LIMITATION ON EXCLUSION FOR GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) GENERAL RULE.—Section 79 (relating to group-term life insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

26 USC 79.

“(d) NONDISCRIMINATION REQUIREMENTS.—

“(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan, paragraph (1) of subsection (a) shall not apply with respect to any key employee.

“(2) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—For purposes of this subsection, the term ‘discriminatory group-term life insurance plan’ means any plan of an employer for providing group-term life insurance unless—

“(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

“(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

“(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

“(A) IN GENERAL.—A plan does not meet requirements of subparagraph (A) of paragraph (2) unless—

“(i) such plan benefits 70 percent or more of all employees of the employer,

“(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

“(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

“(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met.

“(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

“(i) employees who have not completed 3 years of service;

“(ii) part-time or seasonal employees;

“(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

“(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

“(4) NONDISCRIMINATORY BENEFITS.—A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

“(5) SPECIAL RULE.—A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

“(6) KEY EMPLOYEE DEFINED.—For purposes of this subsection, the term ‘key employee’ has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (3)(B) who are not participants in the plan.

“(7) CERTAIN CONTROLLED GROUPS, ETC.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.”

*Ante*, p. 514.

26 USC 79 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

#### SEC. 245. LIMITATION ON ESTATE TAX EXCLUSIONS UNDER SECTION 2039.

26 USC 2039.

(a) GENERAL RULE.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

“(g) \$100,000 LIMITATION ON EXCLUSIONS UNDER SUBSECTIONS (c) AND (e).—The aggregate amount excluded from the gross estate of any decedent under subsections (c) and (e) of this section shall not exceed \$100,000.”

(b) TECHNICAL AMENDMENTS.—Subsections (c) and (e) of section 2039 are each amended by striking out “Notwithstanding the provi-

sions of this section” and inserting in lieu thereof “Subject to the limitation of subsection (g), notwithstanding any other provision of this section”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1982. 26 USC 2039 note.

**SEC. 246. ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.**

(a) **GENERAL RULE.**—Subsection (m) of section 414 (relating to employees of an affiliated service group) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph: 26 USC 414.

“(5) **CERTAIN ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.**—For purposes of this subsection, the term ‘affiliated service group’ also includes a group consisting of—

“(A) an organization the principal business of which is performing, on a regular and continuing basis, management functions for 1 organization (or for 1 organization and other organizations related to such 1 organization), and

“(B) the organization (and related organizations) for which such functions are so performed by the organization described in subparagraph (A).”

For purposes of this paragraph, the term ‘related organizations’ has the same meaning as the term ‘related persons’ when used in section 103(b)(6)(C).”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983. 26 USC 414 note.

**SEC. 247. EXISTING PERSONAL SERVICE CORPORATIONS MAY LIQUIDATE UNDER SECTION 333 DURING 1983 OR 1984.**

(a) **IN GENERAL.**—In the case of a complete liquidation of a personal service corporation (within the meaning of section 535(c)(2)(B) of the Internal Revenue Code of 1954) during 1983 or 1984, the following rules shall apply with respect to any shareholder other than a corporation: 26 USC 333 note.

(1) The determination of whether section 333 of such Code applies shall be made without regard to whether the corporation is a collapsible corporation to which section 341(a) of such Code applies.

(2) No gain or loss shall be recognized by the liquidating corporation on the distribution of any unrealized receivable in such liquidation.

(3)(A) Except as provided in subparagraph (C), any disposition by a shareholder of any unrealized receivable received in the liquidation shall be treated as a sale at fair market value of such receivable and any gain or loss shall be treated as ordinary gain or loss.

(B) For purposes of subparagraph (A), the term “disposition” includes—

(i) failing to hold the property in the trade or business which generated the receivables, and

(ii) failing to hold a continuing interest in such trade or business.

(C) For purposes of subparagraph (A), the term “disposition” does not include transmission at death to the estate of the decedent or transfer to a person pursuant to the right of such person to receive such property by reason of the death of the

decendent or by bequest, devise, or inheritance from the decendent.

(4) Unrealized receivables distributed in the liquidation shall be treated as having a zero basis.

(5) For purposes of computing earnings and profits, the liquidating corporation shall not treat unrealized receivables distributed in the liquidation as an item of income.

(b) **UNREALIZED RECEIVABLES DEFINED.**—For purposes of this section, the term “unrealized receivables” has the meaning given such term by the first sentence of section 751(c) of such Code.

#### SEC. 248. EMPLOYEE LEASING.

26 USC 414.

(a) **GENERAL RULE.**—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

“(n) **EMPLOYEE LEASING.**—

“(1) **IN GENERAL.**—For purposes of the pension requirements listed in paragraph (3), except to the extent otherwise provided in regulations, with respect to any person (hereinafter in this subsection referred to as the ‘recipient’) for whom a leased employee performs services—

“(A) the leased employee shall be treated as an employee of the recipient, but

“(B) contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient.

“(2) **LEASED EMPLOYEE.**—For purposes of paragraph (1), the term ‘leased employee’ means any person who provides services to the recipient if—

“(A) such services are provided pursuant to an agreement between the recipient and any other person (in this subsection referred to as the ‘leasing organization’),

“(B) such person has performed such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least 1 year, and

“(C) such services are of a type historically performed, in the business field of the recipient, by employees.

“(3) **PENSION REQUIREMENTS.**—For purposes of this subsection, the pension requirements listed in this paragraph are—

“(A) paragraphs (3), (4), (7), and (16) of section 401(a), and

“(B) sections 408(k), 410, 411, 415, and 416.

“(4) **TIME WHEN LEASED EMPLOYEE IS FIRST CONSIDERED AS EMPLOYEE.**—In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the pension requirements listed in paragraph (3) are met for periods after the close of the 1-year period referred to in paragraph (2); except that years of service for the recipient shall be determined by taking into account the entire period for which the leased employee performed services for the recipient (or related persons).

“(5) **SAFE HARBOR.**—This subsection shall not apply to any leased employee if such employee is covered by a plan which is maintained by the leasing organization if, with respect to such employee, such plan—

*Ante*, p. 514.

“(A) is a money purchase pension plan with a nonintegrated employer contribution rate of at least 7½ percent, and

“(B) provides for immediate participation and for full and immediate vesting.

“(6) RELATED PERSONS.—For purposes of this subsection, the term ‘related persons’ has the same meaning as when used in section 103(b)(6)(C).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983. 26 USC 414 note.

**SEC. 249. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.**

(a) IN GENERAL.—Section 401 (relating to qualified pension, profit-sharing, stock bonus plans, etc.) is amended by redesignating subsection (l) as subsection (o), and by inserting after subsection (k) the following new subsection: 26 USC 401.

**“(l) NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.—**

“(1) IN GENERAL.—Notwithstanding subsection (a)(5), the coordination of a defined contribution plan with OASDI meets the requirements of subsection (a)(4) only if the total contributions with respect to each participant, when increased by the OASDI contributions, bear a uniform relationship—

“(A) to the total compensation of such employee, or

“(B) to the basic or regular rate of compensation of such employee.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) OASDI CONTRIBUTIONS.—The term ‘OASDI contributions’ means the product of—

“(i) so much of the remuneration paid by the employer to the employee during the plan year as—

“(I) constitutes wages (within the meaning of section 3121(a) without regard to paragraph (1) thereof), and

“(II) does not exceed the contribution and benefit base applicable under OASDI at the beginning of the plan year, multiplied by

“(ii) the rate of tax applicable under section 3111(a) (relating to employer’s OASDI tax) at the beginning of the plan year.

In the case of an individual who is an employee within the meaning of subsection (c)(1), the preceding sentence shall be applied by taking into account his earned income (as defined in subsection (c)(2)).

“(B) OASDI.—The term ‘OASDI’ means the system of old-age, survivors, and disability insurance established under title II of the Social Security Act and the Federal Insurance Contributions Act.

“(C) REMUNERATION.—The term ‘remuneration’ means—

“(i) total compensation, or

“(ii) basic or regular rate of compensation,

whichever is used in determining contributions or benefits under the plan.

“(3) DETERMINATION OF COMPENSATION, ETC., OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, in the case of an

individual who is an employee within the meaning of subsection (c)(1)—

“(A) his total compensation shall include his earned income (as defined in subsection (c)(2)), and

“(B) his basic or regular rate of compensation shall be determined (under regulations prescribed by the Secretary) with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan (other than employees within the meaning of subsection (c)(1)) bears to the total compensation of such employees.”

26 USC 401 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning after December 31, 1983.

**SEC. 250. AUTHORITY OF SECRETARY TO ALLOCATE INCOME AND DEDUCTIONS IN THE CASE OF CERTAIN CORPORATIONS.**

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 269 the following new section:

26 USC 269A.

**“SEC. 269A. PERSONAL SERVICE CORPORATIONS FORMED OR AVAILED OF TO AVOID OR EVADE INCOME TAX.**

**“(a) GENERAL RULE.—If—**

“(1) substantially all of the services of a personal service corporation are performed for (or on behalf of) 1 other corporation, partnership, or other entity, and

“(2) the principal purpose for forming, or availing of, such personal service corporation is the avoidance or evasion of Federal income tax by reducing the income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available,

then the Secretary may allocate all income, deductions, credits, exclusions, and other allowances between such personal service corporation and its employee-owners, if such allocation is necessary to prevent avoidance or evasion of Federal income tax or clearly to reflect the income of the personal service corporation or any of its employee-owners.

**“(b) Definitions.—For purposes of this section—**

“(1) **PERSONAL SERVICE CORPORATION.**—The term ‘personal service corporation’ means a corporation the principal activity of which is the performance of personal services and such services are substantially performed by employee-owners.

“(2) **EMPLOYEE-OWNER.**—The term ‘employee-owner’ means any employee who owns, on any day during the taxable year, more than 10 percent of the outstanding stock of the personal service corporation. For purposes of the preceding sentence, section 318 shall apply, except that ‘5 percent’ shall be substituted for ‘50 percent’ in section 318(a)(2)(C).

“(3) **RELATED PERSONS.**—All related persons (within the meaning of section 103(b)(6)(C)) shall be treated as 1 entity.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part IX of subchapter 1 is amended by inserting after the item relating to section 269 the following new item:

“Sec. 269A. Personal service corporations formed or availed of to avoid or evade income tax.”



(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

26 USC 269A  
note.

#### PART IV—MISCELLANEOUS

##### SEC. 251. CHURCH PLANS.

###### (a) **EXCLUSION ALLOWANCE.**—

(1) **ELECTION TO HAVE SECTION 415 RULES APPLY.**—Subparagraph (B) of section 403(b)(2) (relating to exclusion allowance) is amended by striking out “(under section 415)” and inserting in lieu thereof “(under section 415 without regard to section 415(c)(8))”.

26 USC 403.

(2) **YEARS OF SERVICE.**—Section 403(b)(2) is amended by adding at the end thereof the following new subparagraphs:

“(C) **NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.**—For purposes of this subsection and section 415(c)(4)(A)—

“(i) all years of service by—

“(I) a duly ordained, commissioned, or licensed minister of a church, or

“(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

“(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

For purposes of the preceding sentence, the terms ‘church’ and ‘convention or association of churches’ have the same meaning as when used in section 414(e).

“(D) **ALTERNATIVE EXCLUSION ALLOWANCE.**—

“(i) **IN GENERAL.**—In the case of any individual described in subparagraph (C), the amount determined under subparagraph (A) shall not be less than the lesser of—

“(I) \$3,000, or

“(II) the includible compensation of such individual.

“(ii) **SUBPARAGRAPH NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER \$17,000.**—This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to any community property laws) exceeds \$17,000.

“(iii) **SPECIAL RULE FOR FOREIGN MISSIONARIES.**—In the case of an individual described in subparagraph (C)(i) performing services outside the United States, there shall be included as includible compensation for any year under clause (i)(II) any amount contributed during such year by a church (or convention or association of churches) for an annuity contract with respect to such individual.”

26 USC 403.

(b) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—Section 403(b) is amended by adding at the end thereof the following new paragraph:

“(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

“(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

“(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

“(ii) amounts paid by an employer described in paragraph (1)(A) to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

“(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term ‘retirement income account’ means a defined contribution program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under section 403(b) for an employee described in paragraph (1) or his beneficiaries.”

(c) CONTRIBUTION LIMITATIONS.—

26 USC 415.

(1) APPLICATION OF SECTION 415(c) (4) TO CHURCH PLANS.—Paragraph (4) of section 415(c) (relating to special election for section 403(b) contracts) is amended—

(A) by striking out “or a home health service agency” each place it appears and inserting in lieu thereof “a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)”,

(B) by inserting “(as determined for purposes of section 403(b)(2))” after “service for the employer” in subparagraph (A),

(C) by adding at the end of subparagraph (D) the following new clause:

“(iv) For purposes of this paragraph, the terms ‘church’ and ‘convention or association of churches’ have the same meaning as when used in section 414(e).”, and

(D) by striking out “AND HOME HEALTH SERVICE AGENCIES” in the heading and inserting in lieu thereof “, HOME HEALTH SERVICE AGENCIES, AND CERTAIN CHURCHES, ETC.”.

(2) TOTAL ANNUAL ADDITIONS.—Section 415(c) (relating to limitation on defined contribution plan) is amended by adding at the end thereof the following paragraph:

“(8) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMITS.—

“(A) ALTERNATIVE EXCLUSION ALLOWANCE.—Any contribution or addition with respect to any participant, when expressed as an annual addition, which is allocable to the application of section 403(b)(2)(D) to such participant for such year, shall be treated as not exceeding the limitations of paragraph (1).

“(B) CONTRIBUTIONS NOT IN EXCESS OF \$40,000 (\$10,000 PER YEAR).—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant

who is an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

“(ii) \$40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed \$40,000.

“(iii) NO ELECTION IF PARAGRAPH (4)(A) ELECTION MADE.—No election may be made under this subparagraph for any year if an election is made under paragraph (4)(A) for such year.

“(C) ANNUAL ADDITION.—For purposes of this paragraph, the term ‘annual addition’ has the meaning given such term by paragraph (2).”

(3) CONFORMING AMENDMENT.—Section 403(b)(2)(B) (relating to exclusion allowance) is amended by striking out “and home health service agencies” and inserting in lieu thereof “home health service agencies, and certain churches, etc.” 26 USC 403.

(d) CORRECTION PERIOD FOR CHURCH PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1954) shall not be treated as not meeting the requirements of section 401 or 403 of such Code if— 26 USC 403 note.

(1) by reason of any change in any law, regulation, ruling, or otherwise such plan is required to be amended to meet such requirements, and

(2) such plan is so amended at the next earliest church convention or such other time as the Secretary of the Treasury or his delegate may prescribe.

(e) EFFECTIVE DATES.—

26 USC 403 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RETIREMENT INCOME ACCOUNTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1974.

(3) SECTION 415 AMENDMENTS.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1981.

(4) CORRECTION PERIOD.—The amendment made by subsection (d) shall take effect on July 1, 1982.

(5) SPECIAL RULE FOR EXISTING DEFINED BENEFIT ARRANGEMENTS.—Any defined benefit arrangement which is established by a church or a convention or association of churches (including an organization described in section 414(e)(3)(B)(ii) of the Internal Revenue Code of 1954) and which is in effect on the date of the enactment of this Act shall not be treated as failing to meet the requirements of section 403(b)(2) of such Code merely because it is a defined benefit arrangement.

**SEC. 252. DEFERRED COMPENSATION PLANS FOR STATE JUDGES.**

26 USC 457 note.

Subsection (c) of section 131 of the Revenue Act of 1978 is amended by adding at the end thereof the following new paragraph:

**“(3) DEFERRED COMPENSATION PLANS FOR STATE JUDGES.—**

**“(A) IN GENERAL.—**The amendments made by this section shall not apply to any qualified State judicial plan.

**“(B) QUALIFIED STATE JUDICIAL PLAN.—**For purposes of subparagraph (A), the term ‘qualified State judicial plan’ means any retirement plan of a State for the exclusive benefit of judges or their beneficiaries if—

**“(i) such plan has been continuously in existence since December 31, 1978,**

**“(ii) under such plan, all judges eligible to benefit under the plan—**

**“(I) are required to participate, and**

**“(II) are required to contribute the same fixed percentage of their basic or regular rate of compensation as judge,**

**“(iii) under such plan, no judge has an option as to contributions or benefits the exercise of which would affect the amount of includible compensation,**

**“(iv) the retirement payments of a judge under the plan are a percentage of the compensation of judges of that State holding similar positions, and**

**“(v) the plan during any year does not pay benefits with respect to any participant which exceed the limitations of section 415(b) of the Internal Revenue Code of 1954.”**

**SEC. 253. PROFIT-SHARING PLAN CONTRIBUTIONS ON BEHALF OF DISABLED.**

26 USC 415.

(a) **IN GENERAL.—**Paragraph (3) of section 415(c) (defining participant's compensation) is amended to read as follows:

**“(3) PARTICIPANT'S COMPENSATION.—**For purposes of paragraph (1)—

**“(A) IN GENERAL.—**The term ‘participant's compensation’ means the compensation of the participant from the employer for the year.

**“(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—**In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting ‘the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)’ for ‘compensation of the participant from the employer’.

**“(C) SPECIAL RULES FOR PERMANENT AND TOTAL DISABILITY.—**In the case of a participant—

**“(i) who is permanently and totally disabled (as defined in section 105(d)(4)),**

**“(ii) who is not an officer, owner, or highly compensated, and**

**“(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,**  
the term ‘participant's compensation’ means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid

immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made."

(b) **DEDUCTIBILITY.**—Subparagraph (B) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended by adding at the end thereof the following: "The term 'compensation otherwise paid or accrued during the taxable year to all employees' shall include any amount with respect to which an election under section 415(c)(3)(C) is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable." 26 USC 404.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1981. 26 USC 404 note.

#### **SEC. 254. EXEMPTION FOR TRUSTS WHICH INCLUDE GOVERNMENTAL PLANS.**

(a) **IN GENERAL.**—Section 401(a) (relating to requirements of qualification for qualified pension, profit-sharing, and stock bonus plans) is amended by inserting immediately after paragraph (23) the following new paragraph: 26 USC 401.

"(24) Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of the moneys of any plan or governmental unit described in section 805(d)(6)."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1981. 26 USC 401 note.

## **Subtitle D—Taxation of Life Insurance Companies and Annuities**

### **PART I—COINSURANCE ARRANGEMENTS**

#### **Subpart A—Modified Coinsurance Contracts**

#### **SEC. 255. REPEAL OF OPTIONAL TREATMENT OF POLICIES REINSURED UNDER MODIFIED COINSURANCE CONTRACTS.**

(a) **REPEAL OF SECTION 820.**—Section 820 (relating to optional treatment of policies reinsured under modified coinsurance contracts) is repealed. 26 USC 820.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 811 (relating to dividends to policyholders) is amended by adding at the end thereof the following new subsection: 26 USC 811.

"(c) **SPECIAL RULE FOR DIVIDENDS TO POLICYHOLDERS UNDER REINSURANCE CONTRACTS.**—If, under the terms of a conventional coinsurance contract, a life insurance company (hereinafter referred to as 'the reinsurer') is obligated to reimburse another life insurance company (hereinafter referred to as 'the reinsured') for dividends to policyholders on the policies reinsured, the amount of the deduction for dividends reimbursed shall, for purposes of section 809(d)(12), be equal to the amount of dividends to policyholders— 26 USC 811.

"(1) which were paid by the reinsured, and

*Post*, p. 534.

“(2) with respect to which the reinsurer reimbursed the reinsured under the terms of such contract.

The amount determined under the preceding sentence shall be properly adjusted to reflect the adjustments under subsection (b)(1).”

26 USC 809.

(2) The first sentence of section 809(c)(1) (relating to premiums) is amended to read as follows: “The gross amount of premiums and other consideration, including—

“(A) advance premiums,

“(B) deposits,

“(C) fees,

“(D) assessments,

“(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

“(F) the amount of dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded.”

(3) Section 809(d)(3) (relating to dividends to policyholders) is amended by inserting “, other than the deduction provided under paragraph (12)” before the period at the end thereof.

(4) Section 809(d) (relating to deductions in computing gain and loss from operations) is amended by adding after paragraph (11) thereof the following new paragraph:

“(12) **DIVIDENDS REIMBURSED.**—The deduction for the amount of dividends to policyholders reimbursed by the taxpayer to another insurance company in respect of policies the taxpayer has reinsured (determined under section 811(c)).”

*Ante*, p. 533.

(5) The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by striking out the item relating to section 820.

*Ante*, p. 533.

26 USC 809 note.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) **RULES APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.**—

(A) **IN GENERAL.**—In the case of any taxable year beginning before January 1, 1982—

(i) any determination as to whether any contract met the requirements of subsection (b) of section 820 of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) shall be made solely by reference to the terms of the contract, and

(ii) the treatment of such contract under subsection (c) of such section 820 shall be made in accordance with the regulations under such section which were in effect on December 31, 1981.

(B) **PARAGRAPH NOT TO APPLY IF FRAUD INVOLVED.**—The provisions of subparagraph (A) shall not apply with respect to any deficiency which the Secretary of the Treasury or his delegate establishes was due to fraud with intent to evade tax.

SEC. 256. SPECIAL ACCOUNTING RULES RELATING TO REPEAL OF SECTION 820. 26 USC 809 note.

(a) **IN GENERAL.**—For purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the provisions of this section shall apply to any contract—

(1) which was in effect on December 31, 1981, and

(2) to which section 820(a)(1) of such Code (as in effect before its repeal by section 255(a)) applied.

(b) **TREATMENT OF RESERVES AND ASSETS.**—Except as provided in subsections (c) and (d), the reserves on the contract described in subsection (a) and the assets in relation to such reserves shall—

(1) as of the beginning of taxable year 1982, be treated as the reserves and assets of the reinsurer (and not the reinsured), and

(2) as of the end of taxable year 1982, be treated as the reserves and assets of the reinsured (and not the reinsurer).

(c) **ALLOCATION OF CERTAIN SECTION 820(c) ITEMS.**—Any amount described in paragraphs (1), (2), (4), and (5) of section 820(c) of such Code (as so in effect) with respect to any contract described in subsection (a) shall, beginning with taxable year 1982, be taken into account by the reinsured and the reinsurer in the same manner as such amounts would be taken into account under a modified coin-surance contract to which section 820(a)(1) of such Code (as so in effect) does not apply.

(d) **AMOUNTS TREATED AS RETURNED UNDER THE CONTRACT.**—

(1) **IN GENERAL.**—For taxable year 1982—

(A) in the case of the reinsurer, there shall be allowed as a deduction for ordinary and necessary business expenses under section 809(d)(11) of such Code an amount equal to the termination amount (and such amount shall not otherwise be taken into account in determining gain or loss from operations under section 809 of such Code), and

(B) in the case of the reinsured, the gross amount under section 809(c)(3) of such Code shall be increased by the termination amount.

(2) **ADJUSTMENT FOR RESERVES OF REINSURED.**—For purposes of subsections (a) and (b) of section 810 of such Code, the amount taken into account as of the close of taxable year 1982 by the reinsured shall be reduced for such taxable year (but not for purposes of determining such amount at the beginning of the next succeeding taxable year) by the excess (if any) of—

(A) the reserves on the contract as of January 1, 1982 (determined under the reinsured's method of computing reserves for tax purposes), over

(B) the termination amount.

This paragraph shall not apply to any portion of any policies with respect to which the taxpayer is both the reinsured and the reinsurer under contracts to which this section applies.

(3) **TERMINATION AMOUNT.**—For purposes of this subsection, the term "termination amount" means the amount under the contract which the reinsurer would have returned to the reinsured upon termination of the contract if the contract had been terminated as of January 1, 1982.

(4) **CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT UNDER SECTION 809(d)(5).**—Any amount treated as the reserves of the reinsured by reason of subsection (b)(2) shall not be taken into

account under section 809(d)(5) of the Internal Revenue Code of 1954.

(e) 3-YEAR INSTALLMENT PAYMENT OF TAXES OWED BY REINSURER RESULTING FROM REPEAL OF SECTION 820.—

26 USC 31.

(1) IN GENERAL.—That portion of any tax imposed under chapter 1 of such Code (reduced by the sum of the credits allowable under subpart A of part IV of such chapter) on a reinsurer for taxable year 1982 which is attributable to the excess (if any) of—

(A) any decrease in reserves for such taxable year by reason of subsection (b), over

(B) the amount allowable as a deduction for such taxable year by reason of subsection (d)(1)(A), may, at the election of the reinsurer, be paid in 3 equal annual installments.

(2) TIME FOR PAYMENTS.—

(A) IN GENERAL.—The 3 installments under paragraph (1) shall be paid on March 15 of 1983, 1984, and 1985.

(B) FIRST INSTALLMENT MAY BE MADE IN 2 PAYMENTS.—The reinsurer may elect to pay one-half of the installment due March 15, 1983, on June 15, 1983.

(3) ACCELERATION OF PAYMENTS.—If—

(A) an election is made under paragraph (1), and

(B) before the tax attributable to such excess is paid in full any installment under this section is not paid on or before the date fixed by this section for its payment, then the extension of time for payment of tax provided in this subsection shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary of the Treasury or his delegate.

(4) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under paragraph (1) and a deficiency attributable to the excess has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid on notice and demand from the Secretary of the Treasury or his delegate. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(5) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 of the Internal Revenue Code of 1954 shall apply as though the Secretary of the Treasury or his delegate were extending the time for payment of the tax.

(6) EXTENSION OF PERIOD OF LIMITATIONS.—The running of any period of limitations for the collection of the tax with respect to which an election is made under paragraph (1) shall be suspended for the period during which there are any unpaid installments of such tax.

(7) INTEREST ON INSTALLMENTS.—Rules similar to the rules of section 6601(b)(2) of such Code (without regard to the last sentence thereof) shall apply with respect to any tax for which an election is made under paragraph (1).

(f) SPECIAL RULE ALLOWING REINSURED TO REVOKE AN ELECTION UNDER SECTION 820.—

*Ante*, p. 533.



## (1) IN GENERAL.—In any case in which—

(A) a taxpayer is the reinsured under any contract—

(i) which took effect in 1980 or 1981, and

(ii) with respect to which an election under section 820 of the Internal Revenue Code of 1954 was made,

*Ante*, p. 533.

(B) the taxpayer has a loss from operations or its gain from operations (determined without regard to any deduction under paragraphs (3), (5), and (6) of section 809(d) of such Code) for the taxable year in which such contract took effect does not exceed the taxpayer's taxable investment income for such taxable year,

(C) such contract was not a contract with a person who, during the taxable year in which such contract took effect, was a member of the same affiliated group (determined under section 1504 of such Code without regard to subsection (b)) of which the taxpayer is a member, and

(D) the taxpayer makes an election under this subsection within 6 months after the date of the enactment of this Act, then the provisions of paragraph (2) shall apply.

(2) RULES WHICH APPLY IF THIS SUBSECTION APPLIES.—In any case described in paragraph (1)—

(A) the taxpayer shall, for all taxable years, be treated as not having made an election under section 820 of such Code with respect to the contract described in paragraph (1), but

(B) all other parties to the contract shall be treated as having made such election with respect to such contract for all taxable years.

(g) TAXABLE YEAR 1982.—For purposes of this section, the term “taxable year 1982” means, with respect to any taxpayer, the first taxable year of the taxpayer beginning after December 31, 1981.

(h) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

**Subpart B—Other Reinsurance Agreements****SEC. 257. DENIAL OF INTEREST DEDUCTION ON INDEBTEDNESS INCURRED IN CONNECTION WITH REINSURANCE AGREEMENTS.**

(a) IN GENERAL.—Section 805(e) (relating to interest paid) is amended by adding at the end thereof the following new sentence: “For purposes of this subpart, the interest paid for any taxable year shall not include any interest paid or accrued after December 31, 1981, by a ceding company (or its affiliates) to any person in connection with a reinsurance agreement (other than interest on account of delay in making periodic settlements of income and expense items under the terms of the agreement).”

26 USC 805.

(b) SPECIAL TRANSITIONAL RULE WHERE AT LEAST 20 PERCENT OF THE LIABILITIES REINSURED ARE PAID IN CASH, ETC.—The amendment made by subsection (a) shall not apply with respect to any interest paid or incurred by a ceding company to a person who is a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) on indebtedness evidenced by a note—

26 USC 805 note.

(1) which was entered into after December 31, 1981, with respect to a reinsurance contract under the terms of which an amount not less than 20 percent of the amounts reinsured was

paid in cash to the reinsurer on the effective date of such contract,

(2) at least 40 percent of the principal of which had been paid by the ceding company in cash as of July 1, 1982, and

(3) the remaining balance of which is paid in cash before January 1, 1983.

**SEC. 258. ALLOCATION OF INCOME, ETC. IN THE CASE OF OTHER REINSURANCE AGREEMENTS.**

26 USC 818.

(a) **IN GENERAL.**—Section 818 (relating to accounting provisions) is amended by adding at the end thereof the following new subsection:

“(g) **ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.**—In the case of 2 or more related persons (within the meaning of section 1239(b)) who are parties to a reinsurance agreement, the Secretary may—

“(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

“(2) recharacterize any such items, if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.”.

26 USC 818 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to agreements entered into after the date of the enactment of this Act.

**PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES**

**SEC. 259. INCREASE IN AMOUNT OF DIVIDEND DEDUCTION ALLOWED; PENSION PLAN RESERVES.**

26 USC 809.

(a) **INCREASE IN LIMITATION.**—Section 809(f) (relating to limitation on certain deductions) is amended to read as follows:

“(f) **LIMITATION ON CERTAIN DEDUCTIONS.**—

“(1) **IN GENERAL.**—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed the greater of—

“(A) \$1,000,000, plus the amount (if any) by which—

“(i) the gain from operations for the taxable year (computed without regard to such deductions), exceeds

“(ii) the taxable investment income for the taxable year, or

“(B) if the taxpayer elects for any taxable year, the amount determined under paragraph (2).

“(2) **ALTERNATIVE LIMITATION.**—The amount determined under this paragraph for any taxable year shall be equal to the sum of—

“(A) that portion of the deduction under subsection (d)(3) which is allocable to any contract described in section 805(d), and

“(B) an amount equal to the sum of—

“(i) so much of the base amount as does not exceed \$1,000,000, plus

“(ii) in the case of—

“(I) a mutual life insurance company, 77.5 percent of the base amount, or

“(II) a stock life insurance company, 85 percent of the base amount.

“(3) **REDUCTION IN \$1,000,000 AMOUNT FOR LARGE INSURERS.**—If the sum of the deductions under paragraphs (3), (5), and (6) of subsection (d) exceeds \$4,000,000, then each of the \$1,000,000 amounts in paragraphs (1) and (2) shall be reduced (but not below zero) by the amount which bears the same ratio to \$1,000,000 as—

“(A) the amount of such excess bears to,

“(B) \$4,000,000.

“(4) **BASE AMOUNT.**—For purposes of paragraph (2)(B), the term ‘base amount’ means the excess of—

“(A) the amount of the deductions under paragraphs (3) and (5) of subsection (d) for the taxable year, over

“(B) the amount determined under paragraph (2)(A) for such taxable year.

“(5) **APPLICATION OF LIMITATION.**—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(6).”

(b) **\$1,000,000 LIMITATION TO BE APPORTIONED AMONG MEMBERS OF SAME CONTROLLED GROUP.**—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

26 USC 1561.

(1) by striking out “and” at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and “and”,

(3) by inserting after paragraph (3) the following new paragraph:

“(4) one \$1,000,000 amount (adjusted as provided in section 809(f)(3)) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).”, and

*Ante*, p. 538.

(4) by striking out “(2) and (3)” and inserting in lieu thereof “(2), (3), and (4)”.

(c) **CONFORMING AMENDMENTS.**—Section 1561(b) (relating to certain short taxable years) is amended—

(1) by striking out “and” at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof a comma and “and”,

(3) by inserting after paragraph (3) the following new paragraph:

“(4) the amount (adjusted as provided in section 809(f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f).”, and

(4) by striking out “(2), or (3)” and inserting in lieu thereof “(2), (3), or (4)”.

#### SEC. 260. COMPUTATION OF AMOUNT OF LIFE INSURANCE RESERVES.

(a) **RESERVES ON CONTRACTS ON WHICH CERTAIN INTEREST IS GUARANTEED BEYOND THE END OF THE TAXABLE YEAR.**—Section 818 (relating to accounting provisions), as amended by section 258(a), is amended by adding at the end thereof the following new subsection:

*Ante*, p. 538.

“(h) **METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.**—For purposes of this part (other than section 801), interest payable under any contract which is computed at a rate which—

“(1) is in excess of the lowest rates which are assumed under such contract for any period in calculating the reserves under section 810(c) for the contract under which such interest is payable, and

“(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed, shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.”

26 USC 805.

(b) **PROHIBITION AGAINST DEDUCTION OF INTEREST IN EXCESS OF AMOUNT CREDITED TO GROUP PENSION POLICYHOLDERS.**—Section 805 (relating to the determination of policy and other contract liability requirements) is amended by adding at the end thereof the following:

“(g) **SPECIAL LIMITATION FOR GROUP PENSION CONTRACTS.**—The amount determined under paragraphs (2) and (3) of subsection (a) for policy and other contract liability requirements for group pension contracts shall not exceed the amount actually credited to the policyholders whether such crediting is through premium rate computations, reserve increases, excess interest, experience rate credits, policyholder dividends or otherwise. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.”

26 USC 805 note.

(c) **PROHIBITION AGAINST CHANGING THE QUALIFICATION STATUS OF LIFE INSURANCE COMPANIES.**—For any taxable year ending before January 1, 1984, a taxpayer shall not be treated as other than a life insurance company (as defined in section 801(a) of such Code) because of the effect of amounts held under contracts which would be described in section 805(d) of the Internal Revenue Code of 1954, except for the fact that such contracts do not contain permanent annuity purchase rate guarantees.

#### SEC. 261. MODIFICATION OF MENGE FORMULA.

26 USC 805.

Subparagraph (B) of section 805(c)(1) (defining adjusted life insurance reserves rate) is amended to read as follows:

“(B) 0.9 raised to the power of n where n is the number (positive or negative) determined by subtracting—

“(i) 100 times the average rate of interest assumed by the taxpayer in calculating such reserves, from

“(ii) 100 times the adjusted reserves rate.”

#### SEC. 262. CONSOLIDATED RETURNS TO BE COMPUTED ON A BOTTOM LINE BASIS.

26 USC 818.

Subsection (f) of section 818 (relating to computation on consolidated returns of policyholders' share of investment yield) is amended to read as follows:

“(f) **SPECIAL RULES FOR CONSOLIDATED RETURN COMPUTATIONS.**—For purposes of this part, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the following rules shall apply:

“(1) **POLICYHOLDERS' SHARE OF INVESTMENT YIELD.**—The computation of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

“(2) **LIFE INSURANCE COMPANY TAXABLE INCOME.**—

“(A) **IN GENERAL.**—The amount of the consolidated life insurance company taxable income under paragraphs (1) and (2) of section 802(b) shall be determined by taking into account the life insurance company taxable income (including any case where deductions exceed income) of each life insurance company which is a member of the group (as computed separately under such paragraphs). 26 USC 802.

“(B) **CERTAIN AMOUNTS COMPUTED SEPARATELY.**—For purposes of subparagraph (A), the determination of a life insurance company’s taxable investment income and gain or loss from operations (after applying the limitation provided by section 809(f)) shall be made without regard to the taxable investment income or gain or loss from operations of any other such company.

“(3) **CONSOLIDATED NET CAPITAL GAIN.**—If there is a consolidated net capital gain, then the partial tax referred to in section 802(a)(2)(A) shall be computed on—

“(A) the consolidated life insurance company taxable income, reduced (but not below the sum of the amounts determined under section 802(b)(3)) by

“(B) the amount of such consolidated net capital gain.”

**SEC. 263. EFFECTIVE DATES; SPECIAL RULES APPLICABLE TO TRANSACTIONS BEFORE EFFECTIVE DATE.**

**(a) EFFECTIVE DATES.**—

26 USC 805 note.

(1) **IN GENERAL.**—Except as provided in this subsection, the amendments made by this part shall apply to taxable years beginning after December 31, 1981, and before January 1, 1984.

(2) **GROUP PENSION CONTRACTS.**—The amendments made by section 260(b) shall apply to taxable years beginning after December 31, 1982, and before January 1, 1984.

(3) **RESERVES ON CONTRACTS WHERE INTEREST GUARANTEED FOR EXTENDED PERIODS.**—

(A) **IN GENERAL.**—The amendment made by section 260(a) shall apply to reserves computed for taxable years beginning after December 31, 1981, and before January 1, 1984, with respect to guarantees made after July 1, 1982, and before January 1, 1984.

(B) **SPECIAL RULE RELATING TO RESERVES.**—If, for any taxable year beginning before January 1, 1982—

(i) a taxpayer increased reserves pursuant to section 810(c)(4) of the Internal Revenue Code of 1954 to reflect interest guaranteed beyond the end of such taxable year, and

(ii) the Federal income tax liability of such taxpayer for all taxable years would be the same if such liability was computed with or without regard to such reserves, then such reserves shall, as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1981, be recomputed as if section 818(h) of such Code (as added by this Act) applied to such reserves. If this subparagraph applies to any taxpayer, subparagraph (A) shall be applied with respect to such taxpayer by striking out “after July 1, 1982, and”.

*Ante*, p. 539.

**(b) SPECIAL RULES FOR CERTAIN TRANSACTIONS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.**—

(1) **CERTAIN INTEREST AND PREMIUMS.**—

(A) **IN GENERAL.**—In the case of any taxable year beginning before January 1, 1982, if a taxpayer, on his return of tax for such taxable year, treated—

(i) any amount described in subparagraph (B) as an amount which was not a dividend to policyholders (within the meaning of section 811 of the Internal Revenue Code of 1954), or

(ii) any amount described in subparagraph (C) as not described in section 809(c)(1),

then such amounts shall be so treated for purposes of the Internal Revenue Code of 1954.

(B) **CERTAIN INTEREST.**—An amount is described in this subparagraph if such amount is in the nature of interest accrued for the taxable year on an insurance or annuity contract pursuant to—

(i) an interest rate guaranteed or fixed before the period of payment of such amount begins, or

(ii) any other method (fixed before such period begins) the terms of which during the period are beyond the control and are independent of the experience of the company, whether or not the interest rate or other method was guaranteed or fixed for any specified period of time.

(C) **AMOUNTS NOT TREATED AS PREMIUMS.**—An amount is described in this subparagraph if such amount represents the difference between—

(i) the amount of premiums received or mortality charges made under rates fixed in advance of the premium or mortality charge due date, and

(ii) the maximum premium or mortality charge which could be charged under the terms of the insurance or annuity contract.

(D) **NO INFERENCE.**—The provisions of this paragraph shall constitute no inference with respect to the treatment of any item in taxable years beginning after December 31, 1981.

(2) **CONSOLIDATED RETURNS.**—The provisions of section 818(f) of such Code, as amended by section 262, shall apply to any taxable year beginning before January 1, 1982, if the taxpayer filed a consolidated return before July 1, 1982 for such taxable year under section 1501 of such Code which, on such date (determined without regard to any amended return filed after June 30, 1982), was consistent with the provisions of section 818(f) of such Code, as so amended. In the case of a taxable year beginning in 1981, the preceding sentence shall be applied by substituting “September 16” for “July 1” and “September 15” for “June 30”.

(3) **TAXABLE YEARS WHERE PERIOD OF LIMITATION HAS RUN.**—This subsection shall not apply to any taxable year with respect to which the statute of limitations for filing a claim for credit or refund has expired under any provision of law or by operation of law.

26 USC 811.

*Ante*, p. 534.

**PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS; COMPUTATION OF RESERVES**

**SEC. 264. ALLOWANCE OF DEDUCTION FOR EXCESS INTEREST.**

(a) **IN GENERAL.**—Subsection (e) of section 805 (defining interest paid) is amended by adding at the end thereof the following new paragraph: 26 USC 805.

“(5) **QUALIFIED GUARANTEED INTEREST.**—Qualified guaranteed interest (within the meaning of subsection (f))”.

(b) **QUALIFIED GUARANTEED INTEREST DEFINED.**—Section 805 (relating to policy and other contract liability requirements) is amended by adding at the end thereof the following new subsection:

“(f) **QUALIFIED GUARANTEED INTEREST AND QUALIFIED CONTRACTS.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified guaranteed interest’ means any amount in the nature of interest for the taxable year on qualified contracts, but only if such amount is determined pursuant to—

“(A) a stated rate of interest which is guaranteed—

“(i) before the beginning of the period for which the interest accrues, and

“(ii) for a period of not less than 12 months (or for a period ending not earlier than the close of the taxable year in which the contract was issued), or

“(B) a rate or rates of interest which—

“(i) meet the requirements of clause (i) of subparagraph (A), and

“(ii) is determined under a formula or other method the terms of which—

“(I) during the period referred to in subparagraph (A)(ii) may not be changed by the taxpayer, and

“(II) are independent of the experience of the taxpayer.

“(2) **QUALIFIED CONTRACT.**—The term ‘qualified contract’ means any annuity contract (other than any contract described in subsection (d)) which—

“(A) involves (at the time the qualified interest is credited under the contract) life contingencies,

“(B) provides no right under State law for the policyholder to participate in the divisible surplus of the taxpayer, and

“(C) provides that the taxpayer may from time to time credit amounts in the nature of interest in excess of amounts computed on the basis of any rate or rates guaranteed in the contract at the time it was entered into.

“(3) **SPECIAL RULE FOR PARTICIPATING CONTRACTS.**—

“(A) **IN GENERAL.**—In the case of an annuity contract which is not a qualified contract solely because it fails to satisfy the requirements of subparagraph (B) of paragraph (2), such contract shall be treated as a qualified contract and the amount taken into account as qualified guaranteed interest with respect to such contract shall be equal to the sum of—

“(i) the amount of interest which would be assumed in calculating reserves with respect to such contract under section 810(c) if such interest were not taken into account under subsection (e), plus

“(ii) 92.5 percent of the excess of—

“(I) the amount of qualified guaranteed interest (determined without regard to this paragraph and as if such contract were a qualified contract), over

“(II) the amount determined under clause (i).

“(B) INTEREST NOT OTHERWISE TAKEN INTO ACCOUNT.—No deduction shall be allowed under any other provision of this part for the 7.5 percent of the excess described in subparagraph (A)(ii) which is not treated as qualified guaranteed interest.”

(c) CONFORMING AMENDMENTS.—

26 USC 805. (1) Subparagraph (A) of section 805(c)(1) (defining adjusted life insurance reserves) is amended by inserting “or reserves on any qualified contract” after “pension plan reserves”.

26 USC 809. (2) Paragraph (2) of section 809(a) (defining required interest) is amended—

*Ante*, p. 543. (A) by inserting “the amount of qualified guaranteed interest (within the meaning of section 805(f)(1)) and” after “the sum of”; and

(B) by adding at the end thereof the following new sentence:

*Ante*, p. 543. “For purposes of subparagraphs (A) and (B), reserves on qualified contracts (within the meaning of section 805(f)(2)) shall not be taken into account.”

(3) Paragraph (1) of section 809(e) (relating to modification of interest deduction) is amended by inserting “qualified guaranteed interest (within the meaning of section 805(f)(1) or” after “allowed for”.

26 USC 805 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) GUARANTEES FOR LESS THAN 12 MONTHS.—

(A) MONEYS HELD BEFORE AUGUST 14, 1982.—The requirements of subparagraph (A)(ii) or (B)(ii)(I) of section 805(f)(1) of the Internal Revenue Code of 1954 (as added by subsection (b)) shall not apply to any moneys held under any contract on August 13, 1982 (and any interest on such moneys after such date).

(B) CONTRACTS ENTERED INTO AFTER AUGUST 13, 1982, AND BEFORE JANUARY 1, 1983.—A contract entered into after August 13, 1982, and before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A)(ii) or (B)(ii)(I) of such Code if it meets such requirements on the first contract anniversary date.

SEC. 265. TREATMENT OF AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS BEFORE ANNUITY STARTING DATE.

26 USC 72.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended to read as follows:

“(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

“(1) APPLICATION OF SUBSECTION.—

“(A) IN GENERAL.—This subsection shall apply to any amount which—



“(i) is received under an annuity, endowment, or life insurance contract, and

“(ii) is not received as an annuity,  
if no provision of this subtitle (other than this subsection) applies with respect to such amount.

“(B) DIVIDENDS.—For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

“(2) GENERAL RULE.—Any amount to which this subsection applies—

“(A) if received on or after the annuity starting date, shall be included in gross income, or

“(B) if received before the annuity starting date—

“(i) shall be included in gross income to the extent allocable to income on the contract, and

“(ii) shall not be included in gross income to the extent allocable to the investment in the contract.

“(3) ALLOCATION OF AMOUNTS TO INCOME AND INVESTMENT.—For purposes of paragraph (2)(B)—

“(A) ALLOCATION TO INCOME.—Any amount to which this subsection applies shall be treated as allocable to income on the contract to the extent that such amount does not exceed the excess (if any) of—

“(i) the cash value of the contract (determined without regard to any surrender charge) immediately before the amount is received, over

“(ii) the investment in the contract at such time.

“(B) ALLOCATION TO INVESTMENT.—Any amount to which this subsection applies shall be treated as allocable to investment in the contract to the extent that such amount is not allocated to income under subparagraph (A).

“(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

“(A) LOANS TREATED AS DISTRIBUTIONS.—If, during any taxable year, an individual—

“(i) receives (directly or indirectly) any amount as a loan under any contract to which this subsection applies, or

“(ii) assigns or pledges (or agrees to assign or pledge) any portion of the value of any such contract,  
such amount or portion shall be treated as received under the contract as an amount not received as an annuity.

“(B) TREATMENT OF POLICYHOLDER DIVIDENDS.—Any amount described in paragraph (1)(B) shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract.

“(5) RETENTION OF EXISTING RULES IN CERTAIN CASES.—

“(A) IN GENERAL.—In any case to which this paragraph applies—

“(i) paragraphs (2)(B) and (4)(A) shall not apply, and

“(ii) if paragraph (2)(A) does not apply,  
the amount shall be included in gross income, but only to the extent it exceeds the investment in the contract.

“(B) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before August 14, 1982. Any amount

allocable to investment in the contract after August 13, 1982, shall be treated as from a contract entered into after such date.

“(C) CERTAIN LIFE INSURANCE AND ENDOWMENT CONTRACTS.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract.

“(D) CONTRACTS UNDER QUALIFIED PLANS.—This paragraph shall apply to any amount received—

“(i) from a trust described in section 401(a) which is exempt from tax under section 501(a),

“(ii) from a contract—

“(I) purchased by a trust described in clause (i),

“(II) purchased as part of a plan described in section 403(a),

“(III) described in section 403(b), or

“(IV) provided for employees of a life insurance company under a plan described in section 805(d)(3), or

“(iii) from an individual retirement account or an individual retirement annuity.

“(E) FULL REFUNDS, SURRENDERS, REDEMPTIONS, AND MATURITIES.—This paragraph shall apply to—

“(i) any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract, and

“(ii) any amount received under a contract on its complete surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (2)(A) shall not apply.

“(6) INVESTMENT IN THE CONTRACT.—For purposes of this subsection, the investment in the contract as of any date is—

“(A) the aggregate amount of premiums or other consideration paid for the contract before such date, minus

“(B) the aggregate amount received under the contract before such date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws.”

(b) 5-PERCENT PENALTY FOR CERTAIN PREMATURE DISTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (q) as subsection (r) and by adding after subsection (p) the following new subsection:

“(q) 5-PERCENT PENALTY FOR PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

“(1) IMPOSITION OF PENALTY.—

“(A) IN GENERAL.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount includible in gross income which is properly allocable to any investment in the annuity contract made during the 10-year period ending on the date such amount was received by the taxpayer.

“(B) ALLOCATION ON FIRST-IN, FIRST-OUT BASIS.—For purposes of subparagraph (A), the amount includible in gross income shall be allocated to the earliest investment in the contract with respect to which amounts have not been previously fully allocated under this paragraph.

“(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

“(A) made on or after the date on which the taxpayer attains age 59½,

“(B) made to a beneficiary (or to the estate of an annuitant) on or after the death of an annuitant,

“(C) attributable to the taxpayer’s becoming disabled within the meaning of subsection (m)(7),

“(D) which is one of a series of substantially equal periodic payments made for the life of a taxpayer or over a period extending for at least 60 months after the annuity starting date,

“(E) from a plan, contract, account, trust, or annuity described in subsection (e)(5)(D), or

“(F) allocable to investment in the contract before August 14, 1982.”

(2) CONFORMING AMENDMENTS.—

(A) Each of the following provisions are amended by inserting “section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts),” after “owner-employees”:

*Ante*, p. 546.

(i) Section 46(a)(4),

26 USC 46.

(ii) Section 50A(a)(3),

26 USC 50A.

(iii) Section 53(a),

26 USC 53.

(iv) Section 901(a).

26 USC 901.

(B) Subparagraph (A) of section 1302(a)(2) is amended by inserting “or (q)(1)” after “section 72(m)(5)”.

26 USC 1302.

(C) Paragraph (1) of section 1304(e) is amended—

26 USC 1304.

(i) by inserting “or section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)” after “owner-employees”, and

(ii) by inserting “or (q)(1)” after “Section 72(m)(5)” in the heading thereof.

(c) EFFECTIVE DATES.—

26 USC 72 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on August 13, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to distributions after December 31, 1982.

SEC. 266. FLEXIBLE PREMIUM CONTRACTS.

(a) IN GENERAL.—Section 101 (relating to exclusion from gross income for certain death benefits) is amended by adding at the end thereof the following new subsection:

26 USC 101.

“(f) PROCEEDS OF FLEXIBLE PREMIUM CONTRACTS PAYABLE BY REASON OF DEATH.—

“(1) IN GENERAL.—Any amount paid by reason of the death of the insured under a flexible premium life insurance contract shall be excluded from gross income only if—

“(A) under such contract—

“(i) the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time, and

“(ii) any amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) is not at any time less than the applicable percentage of the cash value of such contract at such time, or

“(B) by the terms of such contract, the cash value of such contract may not at any time exceed the net single premium with respect to the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at such time.

“(2) GUIDELINE PREMIUM LIMITATION.—For purposes of this subsection—

“(A) GUIDELINE PREMIUM LIMITATION.—The term ‘guideline premium limitation’ means, as of any date, the greater of—

“(i) the guideline single premium, or

“(ii) the sum of the guideline level premiums to such date.

“(B) GUIDELINE SINGLE PREMIUM.—The term ‘guideline single premium’ means the premium at issue with respect to future benefits under the contract (without regard to any qualified additional benefit), and with respect to any charges for qualified additional benefits, at the time of a determination under subparagraph (A) or (E) and which is based on—

“(i) the mortality and other charges guaranteed under the contract, and

“(ii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed upon issue of the contract.

“(C) GUIDELINE LEVEL PREMIUM.—The term ‘guideline level premium’ means the level annual amount, payable over the longest period permitted under the contract (but ending not less than 20 years from date of issue or not later than age 95, if earlier), computed on the same basis as the guideline single premium, except that subparagraph (B)(ii) shall be applied by substituting ‘4 percent’ for ‘6 percent’.

“(D) COMPUTATIONAL RULES.—In computing the guideline single premium or guideline level premium under subparagraph (B) or (C)—

“(i) the excess of the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) over the cash value of the contract shall be deemed to be not greater than such excess at the time the contract was issued,

“(ii) the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95, and

“(iii) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at any time under the contract.

“(E) ADJUSTMENTS.—The guideline single premium and guideline level premium shall be adjusted in the event of a change in the future benefits or any qualified additional benefit under the contract which was not reflected in any

guideline single premiums or guideline level premium previously determined.

“(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) FLEXIBLE PREMIUM LIFE INSURANCE CONTRACT.—The terms ‘flexible premium life insurance contract’ and ‘contract’ mean a life insurance contract (including any qualified additional benefits) which provides for the payment of one or more premiums which are not fixed by the insurer as to both timing and amount. Such terms do not include that portion of any contract which is treated under State law as providing any annuity benefits other than as a settlement option.

“(B) PREMIUMS PAID.—The term ‘premiums paid’ means the premiums paid under the contract less any amounts (other than amounts includible in gross income) to which section 72(e) applies. If, in order to comply with the requirements of paragraph (1)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year—

“(i) the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year, and

“(ii) notwithstanding the provisions of section 72(e), the amount of any interest so returned shall be includible in the gross income of the recipient.

“(C) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means—

“(i) 140 percent in the case of an insured with an attained age at the beginning of the contract year of 40 or less, and

“(ii) in the case of an insured with an attained age of more than 40 as of the beginning of the contract year, 140 percent reduced (but not below 105 percent) by one percent for each year in excess of 40.

“(D) CASH VALUE.—The cash value of any contract shall be determined without regard to any deduction for any surrender charge or policy loan.

“(E) QUALIFIED ADDITIONAL BENEFITS.—The term ‘qualified additional benefits’ means any—

“(i) guaranteed insurability,

“(ii) accidental death benefit,

“(iii) family term coverage, or

“(iv) waiver of premium.

“(F) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of paragraph (1)(A)(i) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract without cash value on or before the end of the contract year.

“(G) NET SINGLE PREMIUM.—In computing the net single premium under paragraph (1)(B)—

“(i) the mortality basis shall be that guaranteed under the contract (determined by reference to the

most recent mortality table allowed under all State laws on the date of issuance),

“(ii) interest shall be based on the greater of—

“(I) an annual effective rate of 4 percent (3 percent for contracts issued before July 1, 1983), or

“(II) the minimum rate or rates guaranteed upon issue of the contract, and

“(iii) the computational rules of paragraph (2)(D) shall apply, except that the maturity date referred to in clause (ii) thereof shall not be earlier than age 95.

“(H) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

“(i) the requirements described in paragraph (1) for any contract year was not satisfied due to reasonable error, and

“(ii) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

“(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.”

26 USC 101.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 101(a) (relating to proceeds of life insurance contracts payable by reason of death) is amended by striking out “and in subsection (d)” and inserting in lieu thereof “, subsection (d), and subsection (f)”.

26 USC 101 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts entered into before January 1, 1984.

(2) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE JANUARY 1, 1983.—Any contract entered into before January 1, 1983, which meets the requirements of section 101(f) of the Internal Revenue Code of 1954 on the date which is 1 year after the date of the enactment of this Act shall be treated as meeting the requirements of such section for any period before the date on which such contract meets such requirements. Any death benefits paid under a flexible premium life insurance contract (within the meaning of section 101(f)(3)(A) of such Code) before the date which is 1 year after such date of enactment shall be excluded from gross income.

*Ante*, p. 547.

(3) SPECIAL RULE FOR CERTAIN CONTRACTS.—Any contract entered into before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A) of section 101(f)(1) of such Code if such contract would meet such requirements if section 103(f)(2)(C) of such Code were applied by substituting “3 percent” for “4 percent”.

#### SEC. 267. REDUCTION IN APPROXIMATE REVALUATION METHOD OF COMPUTING RESERVES.

(a) REDUCTION FROM \$21 PER \$1,000 TO \$19 PER \$1,000 IN DETERMINING APPROXIMATE REVALUATION OF CERTAIN RESERVES COMPUTED ON PRELIMINARY TERM BASIS.—

26 USC 818.

(1) IN GENERAL.—Subparagraph (A) of section 818(c)(2) (relating to approximate revaluation of reserves computed on preliminary term basis) is amended—

(A) by striking out “\$21” and inserting in lieu thereof “\$19”, and

(B) by striking out “2.1 percent” and inserting in lieu thereof “1.9 percent”.

(2) **TAXPAYER ALLOWED TO ELECT OUT OF APPROXIMATE REVALUATION.**—The last sentence of section 818(c) (relating to life insurance reserves computed on preliminary term basis) is amended—

26 USC 818.

(A) by inserting “or in effect for a taxable year beginning in 1981” after “1958” the first place it appears, and

(B) by inserting “or 1981, whichever is applicable” after “1958” the second place it appears.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1981, but only with respect to reserves established under contracts entered into after March 31, 1982.

26 USC 818 note.

## **PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982**

### **SEC. 268. UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.**

26 USC 802 note.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before December 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by section 802(a), to the extent that such underpayment was created or increased by any provisions of this subtitle.

## **Subtitle E—Employment Taxes**

### **PART I—IN GENERAL**

#### **SEC. 269. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.**

(a) **GENERAL RULE.**—Chapter 25 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

#### **“SEC. 3508. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.**

26 USC 3508.

“(a) **GENERAL RULE.**—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

“(1) the individual performing such services shall not be treated as an employee, and

“(2) the person for whom such services are performed shall not be treated as an employer.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **QUALIFIED REAL ESTATE AGENT.**—The term ‘qualified real estate agent’ means any individual who is a sales person if—

“(A) such individual is a licensed real estate agent,

“(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

“(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be

treated as an employee with respect to such services for Federal tax purposes.

“(2) DIRECT SELLER.—The term ‘direct seller’ means any person if—

“(A) such person—

“(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or

“(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment,

“(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

“(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

“(3) COORDINATION WITH RETIREMENT PLANS FOR SELF-EMPLOYED.—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals).”

42 USC 410.

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“Treatment of Real Estate Agents and Direct Sellers

*Ante*, p. 551.

“(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply for purposes of this title.”

(c) INDEFINITE EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.—

26 USC 3401  
note.

(1) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY.—

26 USC 3401  
note.

(A) Subparagraph (A) of section 530(a)(1) of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended by striking out “ending before July 1, 1982”.

(B) Paragraph (3) of section 530(a) of such Act is amended by striking out “and before July 1, 1982,”.

(C) The subsection heading of subsection (a) of section 530 of such Act is amended by striking out “FOR PERIODS BEFORE JULY 1, 1982”.

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of such Act is amended—

(A) by striking out “July 1, 1982 (or, if earlier,” and

(B) by striking out “taxes)” and inserting in lieu thereof “taxes”.



(3) **CERTAIN REGULATIONS, ETC., PERMITTED.**—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the implementation of the amendments made by this section.

26 USC 3508  
note.  
26 USC 3401  
note.

(d) **CLERICAL AMENDMENT.**—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

“Sec. 3508. Treatment of real estate agents and direct sellers.”

(e) **EFFECTIVE DATES.**—

26 USC 3508  
note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to services performed after December 31, 1982.

(2) **SUBSECTION (c).**—The amendments made by subsection (c) shall take effect on July 1, 1982.

**SEC. 270. SIMPLIFIED PROCEDURE FOR DETERMINING AMOUNT OF EMPLOYMENT TAXES.**

(a) **IN GENERAL.**—Chapter 25 (relating to general provisions relating to employment taxes), as amended by section 271, is amended by adding at the end thereof the following new section:

**“SEC. 3509. DETERMINATION OF EMPLOYER’S LIABILITY FOR CERTAIN EMPLOYMENT TAXES.**

26 USC 3509.

“(a) **IN GENERAL.**—If any employer fails to deduct and withhold any tax under chapter 24 or subchapter A of chapter 21 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer’s liability for—

26 USC 3401 *et seq.*, 3101.

“(1) **WITHHOLDING TAXES.**—Tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (as defined in section 3401) paid to such employee.

“(2) **EMPLOYEE SOCIAL SECURITY TAX.**—Taxes under subchapter A of chapter 21 with respect to such employee shall be determined as if the taxes imposed under such subchapter were 20 percent of the amount imposed under such subchapter without regard to this subparagraph.

“(b) **EMPLOYER’S LIABILITY INCREASED WHERE EMPLOYER DISREGARDS REPORTING REQUIREMENTS.**—

“(1) **IN GENERAL.**—In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause and not willful neglect, subsection (a) shall be applied with respect to such employee—

*Post*, p. 601.

“(A) by substituting ‘3 percent’ for ‘1.5 percent’ in paragraph (1); and

“(B) by substituting ‘40 percent’ for ‘20 percent’ in paragraph (2).

“(2) **APPLICABLE REQUIREMENTS.**—For purposes of paragraph (1), the term ‘applicable requirements’ means the requirements described in paragraph (1) which would be applicable consistent with the employer’s treatment of the employee as not being an employee for purposes of chapter 24 or subchapter A of chapter 21.

“(c) **SECTION NOT TO APPLY IN CASES OF INTENTIONAL DISREGARD.**—This section shall not apply to the determination of the

26 USC 3401 *et seq.* 3101.

employer's liability for tax under chapter 24 or subchapter A of chapter 21 if such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF LIABILITY.—If the amount of any liability for tax is determined under this section—

"(A) the employee's liability for tax shall not be affected by the assessment or collection of the tax so determined,

"(B) the employer shall not be entitled to recover from the employee any tax so determined, and

"(C) sections 3402(d) and section 6521 shall not apply.

"(2) SECTION NOT TO APPLY WHERE EMPLOYER DEDUCTS WAGE BUT NOT SOCIAL SECURITY TAXES.—This section shall not apply to any employer with respect to any wages if—

"(A) the employer deducted and withheld any amount of the tax imposed by chapter 24 on such wages, but

"(B) failed to deduct and withhold the amount of the tax imposed by subchapter A of chapter 21 with respect to such wages.

"(3) SECTION NOT TO APPLY TO CERTAIN STATUTORY EMPLOYEES.—This section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in subsection (d)(3) of section 3121 (without regard to whether such individual is described in paragraph (1) or (2) of such subsection)."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3509. Determination of employer's liability for certain employment taxes."

26 USC 3509 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply to any assessment made before January 1, 1983.

## PART II—FEDERAL UNEMPLOYMENT TAX

### Subpart A—Increase in Federal Unemployment Tax

#### SEC. 271. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

26 USC 3306.

(a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) (defining wages) is amended by striking out "\$6,000" each place it appears and inserting in lieu thereof "\$7,000".

(b) INCREASE IN RATE.—

26 USC 3301.

(1) IN GENERAL.—Paragraph (1) of section 3301 (relating to rate of unemployment tax) is amended by striking out "3.4 percent" and inserting in lieu thereof "3.5 percent".

(2) TECHNICAL AMENDMENTS.—

42 USC 1101.

(A) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 3.5 percent."

26 USC 3301.

(B) Paragraph (1) of section 905(b) of such Act is amended by amending the last sentence to read as follows: "In the case of any month after March 1983 and before April 1 of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting '40 percent' for 'one-tenth'." 42 USC 1105.  
26 USC 3301.

(C) Subsection (b) of section 6157 is amended by striking out "0.7 percent" and inserting in lieu thereof "0.8 percent". 26 USC 6157.

(c) INCREASE IN RATE FOR 1985 AND THEREAFTER.—

(1) IN GENERAL.—Section 3301 (as amended by subsection (b)) is amended—

(A) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent", and

(B) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent".

(2) INCREASE IN AMOUNT OF STATE CREDIT.—

(A) Subsection (b) of section 3302 (relating to additional credit) is amended by striking out "2.7%" and inserting in lieu thereof "5.4%". 26 USC 3302.

(B) Paragraph (1) of section 3302(d) (relating to rate of tax deemed to be 3 percent) is amended by striking out "3 percent" each place it appears and inserting in lieu thereof "6 percent".

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 3302(c) is amended by striking out "10 percent" each place it appears in subparagraph (A) and inserting in lieu thereof "5 percent".

(B) Paragraph (3) of section 3302(c) is amended by striking out "15 percent" and inserting in lieu thereof "7½ percent".

(C) Subsection (b) of section 6157 is amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof "0.6 percent". 26 USC 6157.

(D) Subparagraph (C) of section 901(c)(3) of the Social Security Act (as amended by subsection (b)) is amended—

*Ante*, p. 554.

(i) by striking out "0.5 percent" and inserting in lieu thereof "0.6 percent";

(ii) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent"; and

(iii) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent".

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1982. 26 USC 3301 note.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984. 26 USC 3301 note.

(3) TRANSITIONAL RULE FOR CERTAIN EMPLOYEES.—

26 USC 3302 note.

(A) IN GENERAL.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified specific industry provision

*Supra*.

if the requirements of subparagraph (B) are met with respect to such employee.

(B) **REQUIREMENTS.**—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a specific industry provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multiplied by the wages paid by the employer during the taxable year.

(C) **REQUIRED RATE.**—For purposes of subparagraph (B), the required rate for any taxable year is the sum of—

(i) the rate at which contributions were required to be made under the specific industry provision as in effect on August 10, 1982, and

(ii) the applicable percentage of the excess of 5.4 percent over the rate described in clause (i).

(D) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (C), the term “applicable percentage” means—

(i) 20 percent in the case of taxable year 1985,

(ii) 40 percent in the case of taxable year 1986,

(iii) 60 percent in the case of taxable year 1987, and

(iv) 80 percent in the case of taxable year 1988.

(E) **QUALIFIED SPECIFIC INDUSTRY PROVISION.**—For purposes of this paragraph, the term, “qualified specific industry provision” means a provision contained in a State unemployment compensation law (as in effect on August 10, 1982)—

(i) which applies to employees in a specific industry or to an otherwise defined type of employees, and

(ii) under which employers may elect to make contributions at a specified rate (without experience rating) which exceeds 2.7 percent.

### Subpart B—Other Financing Provisions

#### SEC. 272. CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.

95 Stat. 876.

(a) **GENERAL RULE.**—Section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

“(g) **CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.**—

“(1) **IN GENERAL.**—In the case of any State which meets requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year; except that such taxable year (and January 1 of such taxable year) shall (except as provided in subsection (f)(3)) be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

“(2) **REQUIREMENTS.**—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

“(A) the repayments during the 1-year period ending on November 9 of such taxable year made by such State of

advances under title XII of the Social Security Act are not less than the sum of— 42 USC 1321.

“(i) the potential additional taxes for such taxable year, and

(ii) any advances made to such State during such 1-year period under such title XII,

“(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 3-month period beginning on November 1 of such taxable year without receiving any advance under title XII of the Social Security Act, and

“(C) there is a net increase in the solvency of the State unemployment compensation system for the taxable year attributable to changes made in the State law after the date on which the first advance taken into account in determining the amount of the potential additional taxes was made (or, if later, after the date of the enactment of this subsection) and such net increase equals or exceeds the potential additional taxes for such taxable year.

“(3) DEFINITIONS.—For purposes of paragraph (2)—

“(A) POTENTIAL ADDITIONAL TAXES.—The term ‘potential additional taxes’ means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection but with regard to subsection (f).

“(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State’s balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State. 42 USC 1101.

“(4) REPORTS.—The Secretary of Labor may require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982. 26 USC 3302 note.

#### SEC. 273. LIMITATION ON FIFTH YEAR CREDIT REDUCTION.

(a) GENERAL RULE.—Paragraph (2) of section 3302(c) (relating to limit on total credits) is amended by adding at the end thereof the following new sentence: “Subparagraph (C) shall not apply with respect to any taxable year to which it would otherwise apply (but subparagraph (B) shall apply to such taxable year) if the Secretary of Labor determines (on or before November 10 of such taxable year) that the State meets the requirements of subsection (f)(2)(B) for such taxable year.” 26 USC 3302.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982. 26 USC 3302 note.

#### SEC. 274. DEFERRAL OF INTEREST IN CASE OF CERTAIN STATES WITH HIGH UNEMPLOYMENT RATES.

(a) GENERAL RULE.—Paragraph (3) of section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: 95 Stat. 879.  
42 USC 1322.

“(C)(i) In the case of any State which meets the requirements of clause (ii) for any calendar year, any interest otherwise required to be paid under this subsection during such calendar year shall be paid as follows—

“(I) 25 percent of the amount otherwise required to be paid on or before any day during such calendar year shall be paid on or before such day; and

“(II) 25 percent of the amount otherwise required to be paid on or before such day shall be paid on or before the corresponding day in each of the 3 succeeding calendar years.

Any interest the time for payment of which is deferred under this subparagraph shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

“(ii) A State meets the requirements of this clause for any calendar year if the rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) under the State law of the period consisting of the first 6 months of the preceding calendar year equaled or exceeded 7.5 percent.”

26 USC 3304  
note.

42 USC 1322  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to interest required to be paid after December 31, 1982.

#### SEC. 275. REQUIRED REPAYMENTS FROM EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

42 USC 1105.

Subsection (d) of section 905 of the Social Security Act is amended by inserting after the second sentence the following new sentence: “Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount then in the account exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months.”

#### SEC. 276. TREATMENT OF CERTAIN SERVICES PERFORMED BY STUDENTS.

##### (a) **STUDENT INTERNS.**—

26 USC 3306.

(1) **IN GENERAL.**—Subparagraph (C) of section 3306(c)(10) (defining employment) is amended by striking out “under the age of 22”.

26 USC 3306  
note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply with respect to services performed after the date of the enactment of this Act.

##### (b) **FULL TIME STUDENTS EMPLOYED BY SUMMER CAMPS.**—

26 USC 3306.

(1) **SERVICE BY FULL TIME STUDENTS.**—Subsection (c) of section 3306 (defining employment) is amended—

(A) by striking out “or” at the end of paragraph (18),

(B) by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; or”, and

(C) by adding at the end thereof the following new paragraph:

“(20) service performed by a full time student (as defined in subsection (q)) in the employ of an organized camp—

“(A) if such camp—

“(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

“(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than

33½ percent of its average gross receipts for the other 6 months in the preceding calendar year; and  
 “(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year.”

- (2) **FULL TIME STUDENT DEFINED.**—Section 3306 is amended by adding at the end thereof the following new subsection:  
 “(q) **FULL TIME STUDENT.**—For purposes of subsection (c)(20), an individual shall be treated as a full time student for any period—  
 “(1) during which the individual is enrolled as a full time student at an educational institution, or  
 “(2) which is between academic years or terms if—  
 “(A) the individual was enrolled as a full time student at an educational institution for the immediately preceding academic year or term, and  
 “(B) there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (A).”
- (3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid after December 31, 1982, and before January 1, 1984.

26 USC 3306.

26 USC 3306 note.

#### SEC. 277. TREATMENT OF CERTAIN ALIEN FARM WORKERS.

Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking out “January 1, 1982” and inserting in lieu thereof “January 1, 1984”.

26 USC 3306.

### PART III—MEDICARE COVERAGE

#### SEC. 278. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, FEDERAL EMPLOYMENT.

##### (a) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

- (1) **IN GENERAL.**—Section 3121 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:  
 “(u) **APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.**—

26 USC 3121.

“(1) **IN GENERAL.**—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

“(A) paragraph (6) of subsection (b) shall be applied without regard to subparagraphs (A), (B), and (C)(i), (ii), and (vi) thereof, and

“(B) paragraph (5) of subsection (b) (and the provisions of law referred to therein) shall not apply.

“(2) **MEDICARE QUALIFIED FEDERAL EMPLOYMENT.**—For purposes of this chapter, the term ‘medicare qualified Federal employment’ means service which—

“(A) is employment (as defined in subsection (b)) with the application of paragraph (1), but

“(B) would not be employment (as so defined) without the application of paragraph (1).”

(2) **CONFORMING AMENDMENT TO SELF-EMPLOYMENT TAX.**—Section 1402(b) (relating to self-employment income) is amended in the second sentence by striking out “and” before “(B)” and by inserting before the period the following: “, and (C) includes, but

26 USC 1402.

*Ante*, p. 559.

only with respect to the tax imposed by section 1401(b), remuneration paid for medicare qualified Federal employment (as defined in section 3121(u)(2)) which is subject to the taxes imposed by sections 3101(b) and 3111(b)".

(3) CONFORMING AMENDMENT TO FEDERAL SERVICE.—Section 3122 (relating to federal service) is amended in the first sentence by inserting "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))," after "wholly owned by the United States,".

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

42 USC 410.

(1) DEFINITION OF MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Medicare Qualified Federal Employment

42 USC 426,  
426-1.

"(p) For purposes of sections 226 and 226A, the term 'medicare qualified Federal employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(1) subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6), or

"(2) subsection (a)(5)."

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

42 USC 426.

(A) FOR INDIVIDUALS AGE 65 OR OLDER.—Section 226(a)(2) of the Social Security Act is amended—

(i) by inserting "(A)" after "(2)";

(ii) by striking out "or is a qualified railroad retirement beneficiary," at the end of subparagraph (A); and

(iii) by inserting after subparagraph (A) the following new subparagraphs:

"(B) is a qualified railroad retirement beneficiary, or

"(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII,".

*Supra*.

42 USC 1395c.

(B) ENTITLEMENT FOR DISABLED INDIVIDUALS.—

(i) IN GENERAL.—Section 226(b)(2) of the Social Security Act is amended by striking out "(B)" and all that follows through "1974," and adding at the end the following:

"(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or

"(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII pursuant to this subparagraph, and

"(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this title), including the requirement that he has been entitled to the specified benefits for 24 months, if—

"(I) medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and

45 USC 231f.



“(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),”.

(ii) **CLARIFICATION OF PERIOD OF ENTITLEMENT.**—Section 226(b) of such Act is further amended by adding after the first sentence the following new sentence: “In applying the previous sentence in the case of an individual described in paragraph (2)(C), the ‘twenty-fifth month of his entitlement’ refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and ‘notice of termination of such entitlement’ refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph.”. 42 USC 426.

(C) **ENTITLEMENT FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.**—Paragraph (1) of section 226A(a) of the Social Security Act is amended to read as follows: 42 USC 426-1.

“(1)(A) is fully or currently insured (as such terms are defined in section 214), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included within the meaning of the term ‘employment’ for purposes of this title, and (ii) his medicare qualified Federal employment (as defined in section 210(p)) were included within the meaning of the term ‘employment’ for purposes of this title; 45 USC 231t.

“(B)(i) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) would be entitled to a monthly insurance benefit under this title if medicare qualified Federal employment (as defined in 210(p)) after December 31, 1982, were included within the meaning of the term ‘employment’ for purposes of this title; or *Ante*, p. 560.

“(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or (B);”.

(3) **CONFORMING AMENDMENT.**—Section 1811 of the Social Security Act is amended—

(A) by inserting “(or would be eligible for such benefits if certain Federal employment were covered employment under such title)” after “title II of this Act” in clause (1), and 42 USC 1395c.

(B) by inserting “(or would have been so entitled to such benefits if certain Federal employment were covered employment under such title)” after “title II of this Act” in clause (2).

(4) **NOTICE TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON FEDERAL EMPLOYMENT.**—Section 226 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 42 USC 426.

“(g) The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified Federal employment are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (2) the requirements for 42 USC 1395c.

and conditions of such eligibility, and (3) the necessity of timely application as a condition of entitlement under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity under chapter 83 of title 5, United States Code, or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.”.

(c) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1982.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) are effective on and after January 1, 1983, and the amendments made by paragraph (3) of that subsection apply to remuneration (for medicare qualified Federal employment) paid after December 31, 1982.

(B) TREATMENT OF CURRENT DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b) or the provisions of subsection (d), no individual may be considered to be under a disability for any period before January 1, 1983.

(d) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual—

(A) who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act) and

(B) who would be entitled, under section 226(a)(2)(C), 226(b)(2)(C), 226A(a)(1)(A)(ii), or 226A(a)(1)(B)(iii) of such Act, to hospital insurance benefits under part A of title XVIII of such Act but for the failure to include medicare qualified Federal employment (as so defined) within the meaning of the term “employment” for purposes of title II of such Act for remuneration paid before January 1, 1983,

the individual’s medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be “employment” (as so defined), but only for the purpose of providing such entitlement.

(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person’s eligibility for hospital insurance benefits.

5 USC 8301 *et seq.*

26 USC 3121 note.

42 USC 426 note.

42 USC 1395c.

42 USC 426 note.

42 USC 426, 426-1, 1395c.

*Ante*, pp. 560, 561.

42 USC 401.

42 USC 402.

42 USC 423.

(3) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1) or (2) of this subsection, 42 USC 1395.

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

## Subtitle F—Excise Taxes

### PART I—AIRPORT AND AIRWAY

#### SEC. 279. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

##### (a) IMPOSITION OF TAX.—

(1) GASOLINE FUELS.—Paragraph (3) of subsection 4041(c) (relating to rate of tax) is amended by striking out “3 cents a gallon” and inserting in lieu thereof “8 cents a gallon (10½ cents a gallon in the case of any gasoline with respect to which a tax is imposed under section 4081 at the rate set forth in subsection (b) thereof)”. 26 USC 4041.

(2) NONGASOLINE FUELS.—Paragraph (1) of subsection 4041(c) (relating to tax on fuel used in noncommercial aviation) is amended by striking out “7 cents” and inserting in lieu thereof “14 cents”.

(3) TERMINATION.—Paragraph (5) of section 4041(c) is amended to read as follows:

“(5) TERMINATION.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1987.”

##### (b) CERTAIN HELICOPTERS.—

(1) EXEMPTION.—Section 4041 (relating to tax on special fuels) is amended by adding at the end thereof the following new subsection:

“(1) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

“(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

“(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operation), but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such use.” 49 USC 1701 note.

(2) REFUND OF TAX.— Subsection (d) of section 6427 (relating to fuels not used for taxable purposes) is amended— 26 USC 6427.

(A) by inserting “or is used in a helicopter for a purpose described in section 4041(l),” after “section 4041(h)(2)(C),”; and

(B) by inserting “or in Certain Helicopters” after “Museums” in the caption thereof.

26 USC 4041  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on September 1, 1982.

**SEC. 280. TAX ON TRANSPORTATION BY AIR.**

26 USC 4261.

(a) **TRANSPORTATION OF PERSONS.**—Section 4261 (relating to imposition of tax) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

“(e) **EXEMPTION FOR CERTAIN HELICOPTER USES.**—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

“(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

“(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such use.

49 USC 1701  
note.  
*Post*, p. 671.

“(f) **TERMINATION.**—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988.”

26 USC 4271.

(b) **TRANSPORTATION OF PROPERTY.**—Subsection (d) of section 4271 is amended to read as follows:

“(d) **TERMINATION.**—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988.”

(c) **REPEAL OF CERTAIN TERMINATED TAXES.**—

26 USC  
4491-4494.

(1) **IN GENERAL.**—Subchapter E of chapter 36 is hereby repealed.

(2) **CONFORMING AMENDMENTS.**—

(A) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

26 USC 4281.

(B) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(i) by striking out “(as defined in section 4492(b))”, and

(ii) by adding at the end thereof the following new sentence: “For purposes of the preceding sentence, the term ‘maximum certificated takeoff weight’ means the maximum such weight contained in the type certificate or airworthiness certificate.”

26 USC 6156.

(C) Subsection (a) of section 6156 is amended by striking out “or 4491”.

(D) Paragraph (2) of section 6156(e) is amended by striking out “in the case of the tax imposed by section 4481”.

(E) The section heading for section 6156 is amended by striking out “AND CIVIL AIRCRAFT”.

(F) The table of sections for subchapter A of chapter 62 is amended by striking out “and civil aircraft” in the item relating to section 6156.

(G) Section 6426 is hereby repealed.

Repeal.  
26 USC 6426.

(H) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to transportation beginning after August 31, 1982; except that such amendments shall not apply to any amount paid on or before such date.

26 USC 4261  
note.

#### SEC. 281. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) **GENERAL RULE.**—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

##### “SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

26 USC 9502.

“(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the ‘Airport and Airway Trust Fund’, consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

“(b) **TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.**—There is hereby appropriated to the Airport and Airway Trust Fund—

“(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

“(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under section 4081, with respect to gasoline used in aircraft; and

“(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

“(c) **APPROPRIATION OF ADDITIONAL SUMS.**—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

“(d) **EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.**—

“(1) **AIRPORT AND AIRWAY PROGRAM.**—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1987, to meet those obligations of the United States—

“(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 (as such Acts were in effect on the date of the enactment of the Airport and Airway Improvement Act of 1982);

“(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

“(i) air traffic control,

“(ii) air navigation,

49 USC 1701.  
49 USC 1701  
note.  
49 USC 2101  
note.  
95 Stat. 622.  
*Post*, p. 671.

“(iii) communications, or  
 “(iv) supporting services,  
 for the airway system; or

“(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

“(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms, 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

“(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.”

(b) REPEAL OF SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

49 USC 1742.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

“Sec. 9501. Black Lung Disability Trust Fund.  
 “Sec. 9502. Airport and Airway Trust Fund.”

26 USC 9501.

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

“SEC. 9501. BLACK LUNG DISABILITY TRUST FUND.”

26 USC 9502  
 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 1, 1982.

(2) SAVINGS PROVISIONS.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund established by the amendments made by this section.

*Supra.*

#### SEC. 281A. TECHNICAL PROVISIONS RELATING TO TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) TECHNICAL MODIFICATIONS TO TRANSPORTATION OF PASSENGERS BY AIR.—

(1) LONGER LAYOVER PERMITTED TO QUALIFY AS UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—Paragraph (3) of section

4262(c) (defining uninterrupted international air transportation) is amended by striking out “6 hours” each place it appears and inserting in lieu thereof “12 hours”.

26 USC 4262.

(2) **AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.**—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection:

26 USC 4262.

“(e) **AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.**—

“(1) **IN GENERAL.**—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

“(A) the Secretary shall publish a notice of such determination in the Federal Register, and

Publication  
in Federal  
Register.

“(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement, the term ‘225-mile zone’ shall not include part or all of the country with respect to which such determination is made.

“(2) **TERMINATION OF WAIVER.**—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

“(A) the Secretary shall publish a notice of such determination in the Federal Register, and

Publication  
in Federal  
Register.

“(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

“(3) **QUALIFIED AGREEMENT.**—For purposes of this subsection, the term ‘qualified agreement’ means an agreement between the United States and Canada or Mexico (as the case may be)—

“(A) setting forth that portion of such country which is not to be treated as within the 225-mile zone, and

“(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

“(4) **REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.**—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to transportation beginning after August 31, 1982.

26 USC 4262  
note.

(b) **MANNER IN WHICH TAX ON TRANSPORTATION BY AIR IS REQUIRED TO BE SHOWN ON AIRLINE TICKETS.**—

(1) **GENERAL RULE.**—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows:

26 USC 7275.

“(a) **TICKETS.**—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

“(1) the amount paid for such transportation, and

“(2) the taxes imposed by subsections (a) and (b) of section 4261.”.

26 USC 7275  
note.

(2) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

## PART II—COMMUNICATIONS SERVICES

### SEC. 282. EXTENSION OF EXCISE TAX ON COMMUNICATIONS SERVICES.

26 USC 4251.

(a) **IN GENERAL.**—Section 4251 (relating to imposition of tax on communications services) is amended by striking out subsections (a) and (b) and inserting the following new subsections:

“(a) **TAX IMPOSED.**—

“(1) **IN GENERAL.**—There is hereby imposed on amounts paid for communications services a tax equal to the applicable percentage of amounts so paid.

“(2) **PAYMENT OF TAX.**—The tax imposed by this section shall be paid by the person paying for such services.

“(b) **DEFINITIONS.**—“For purposes of subsection (a)—

“(1) **COMMUNICATIONS SERVICES.**—“The term ‘communications services’ means—

“(A) local telephone service;

“(B) toll telephone service; and

“(C) teletypewriter exchange service.

“(2) **APPLICABLE PERCENTAGE.**—“The term ‘applicable percentage’ means—

“With respect to amounts paid pursuant to bills first rendered—

The percentage is—

During 1983, 1984, or 1985.....	3
During 1986 or thereafter.....	0.”.

26 USC 4251  
note.

(b) **EFFECTIVE DATE.**—“The amendment made by subsection (a) shall apply with respect to amounts paid for communications services pursuant to bills first rendered after December 31, 1982.

## PART III—CIGARETTES

### SEC. 283. INCREASE IN TAX ON CIGARETTES.

26 USC 5701.

(a) **RATE OF TAX.**—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(1) by striking out “\$4” in paragraph (1) and inserting in lieu thereof “\$8”; and

(2) by striking out “\$8.40” in paragraph (2) and inserting in lieu thereof “\$16.80”.

26 USC 5701  
note.

(b) **FLOOR STOCKS.**—

(1) **IMPOSITION OF TAX.**—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) **SMALL CIGARETTES.**—On cigarettes, weighing not more than 3 pounds per thousand, \$4 per thousand;

(B) **LARGE CIGARETTES.**—On cigarettes, weighing more than 3 pounds per thousand, \$8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) **LIABILITY FOR TAX AND METHOD OF PAYMENT.**—



(A) **LIABILITY FOR TAX.**—A person holding cigarettes on January 1, 1983, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) **METHOD OF PAYMENT.**—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 and shall be due and payable on January 18, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1983.

(3) **CIGARETTE.**—For purposes of this subsection, the term “cigarette” shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) **EXCEPTION FOR RETAILERS.**—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on January 1, 1983, at the place where intended to be sold at retail.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to cigarettes removed after December 31, 1982 and before October 1, 1985. 26 USC 5701 note.

#### **PART IV—TAPS ADJUSTMENT ELIMINATED**

##### **SEC. 284. ELIMINATION OF THE TAPS ADJUSTMENT.**

(a) **IN GENERAL.** Subsection (d) of section 4996 (relating to Alaskan oil from Sadlerochit reservoir) is amended to read as follows: 26 USC 4996.

“(d) **ALASKAN OIL FROM SADLEROCHIT RESERVOIR.**—For purposes of this chapter—

“(1) **REMOVAL PRICE DETERMINED ON MONTHLY BASIS.**—The removal price of Sadlerochit oil removed during any calendar month shall be the average of the producer's removal prices for such month.

“(2) **SADLEROCHIT OIL DEFINED.**—The term ‘Sadlerochit oil’ means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to oil removed after December 31, 1982. 26 USC 4996 note.

### **Subtitle G—Miscellaneous**

##### **SEC. 285. TWO-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME OF NATIONAL RESEARCH SERVICE AWARDS.**

Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to exclusion from gross income for national research service awards) is amended by striking out “1981” and inserting in lieu thereof “1983”. 26 USC 117 note.

##### **SEC. 286. SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.**

(a) **SPECIAL RULES.**—Section 501 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection: 26 USC 501.

“(j) **SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.**—

“(1) **IN GENERAL.**—In the case of a qualified amateur sports organization—

“(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

“(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

“(2) **QUALIFIED AMATEUR SPORTS ORGANIZATION DEFINED.**—For purposes of this subsection, the term ‘qualified amateur sports organization’ means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.”

26 USC 170. (b) **DEFINITION OF CHARITABLE CONTRIBUTION.**—(1) Subsection (c) of section 170 (defining charitable contribution) is amended by adding at the end of paragraph (2) the following new sentence: “Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.”

26 USC 2055. (2) Subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by adding at the end thereof the following new sentence: “Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).”

26 USC 2522. (3) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended by adding at the end thereof the following new sentence: “Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).”

26 USC 501 note. (c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 5, 1976.

#### SEC. 287. NEW JERSEY GENERAL REVENUE SHARING ALLOCATION.

(a) **IN GENERAL.**—Subsection (e) of section 109 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228) (defining general tax effort factor) is amended by inserting at the end thereof the following new paragraph:

“(3) **NEW JERSEY FRANCHISE AND GROSS RECEIPTS TAXES.**—

“(A) The New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of local government within the State in the years beginning January 1 of 1980, 1981, and 1982 shall be deemed to be an adjusted tax of such units for purposes of paragraph (2)(A)(i).

“(B) The provisions of subparagraph (A) shall be given effect for quarterly payments made for quarters beginning after December 31, 1982, only if the Governor of the State of New Jersey notifies the Secretary that, prior to January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for collection and retention of such taxes by units of local government for years beginning as of January 1, 1983.

“(C) Notwithstanding the limitation in subparagraph (B), the provisions of subparagraph (A) shall be given effect with respect to the quarterly payment to be made for the quarter beginning October 1, 1982.”

31 USC 1228 note. (b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective after September 30, 1982.

## SEC. 288. ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 162(c) (relating to illegal payments to Government officials or employees) is amended—

26 USC 162.

(1) by striking out “would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee” and inserting in lieu thereof “is unlawful under the Foreign Corrupt Practices Act of 1977”, and

15 USC 78a note.

(2) by striking out “(or would be unlawful under the laws of the United States)” and inserting in lieu thereof “(or is unlawful under the Foreign Corrupt Practices Act of 1977)”.

(b) COORDINATION WITH SUBPART F.—

(1) Subsection (a) of section 952 is amended by adding at the end thereof the following new sentence:

26 USC 952.

“The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.”

(2) Subsection (a) of section 964 is amended by adding at the end thereof the following new sentence: “The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.”

26 USC 964.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

26 USC 162 note.

## SEC. 289. DEBT MANAGEMENT PROVISIONS.

(a) DETERMINATION BY SECRETARY OF INVESTMENT YIELD ON UNITED STATES SAVINGS BOND.—

(1) Subsection (b) of section 22 of the Second Liberty Bond Act (31 U.S.C. 757c) is amended—

(A) by amending paragraph (3) to read as follows:

“(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond. The Secretary of the Treasury, with the approval of the President, may provide for increases and decreases in the investment yield on any outstanding United States savings bond; except that the investment yield on any bond for the period held may not be decreased below the minimum yield for such period guaranteed at the time of its issuance.”;

(B) by striking out “the Secretary of the Treasury may prescribe: Provided” and all that follows down through the end of the second sentence of paragraph (1) of such subsection and inserting in lieu thereof “the Secretary of the Treasury may prescribe.”;

(C) by striking out “and shall be expressed in terms of their maturity value” in the third sentence of paragraph (1) of such subsection; and

(D) by striking out “higher rates which are consistent” and inserting in lieu thereof “rates which are consistent” in subparagraph (B) of paragraph (2) of such subsection.

(2) The second sentence of section 22A(b)(1) of such Act is amended by striking out “the Secretary of the Treasury may prescribe” and all that follows down through the end thereof and inserting in lieu thereof “the Secretary of the Treasury may prescribe.”.

31 USC 757c-2.

(b) TRANSITIONAL RULE.—In the case of any savings bond issued before the 30th day after the date of the enactment of this Act, for

31 USC 757c note.

31 USC 757c,  
757c-2.

purposes of sections 22 and 22A of the Second Liberty Bond Act, the minimum yield guaranteed for the period held shall be the scheduled investment yield for such period as in effect on such 30th day.

(c) **LIMIT ON OUTSTANDING BONDS.**—Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out “\$70,000,000,000” and inserting in lieu thereof “\$110,000,000,000”.

#### SEC. 290. JEFFERSON COUNTY MENTAL HEALTH CENTER.

(a) **IN GENERAL.**—The Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Jefferson County Mental Health Center, Incorporated, of Lakewood, Colorado, the sum of \$50,000 in full settlement of all claims of the center against the United States for repayment of amounts the center erroneously refunded to its employees for social security contributions in the period after December 31, 1971, and prior to May 14, 1975, pursuant to instructions by the Internal Revenue Service.

(b) **LIMITATION.**—No part of the amount appropriated in subsection (a) in excess of 10 per centum shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof be fined any sum not exceeding \$1,000.

#### SEC. 291. ALASKA NATIVE CORPORATIONS.

26 USC 4994.

Paragraph (2) of subsection (d) of section 4994 of subpart B of chapter 45 (relating to windfall profit tax on domestic crude oil; categories of oil) is amended by striking “under” the first time it appears and inserting in lieu thereof “pursuant to”.

#### SEC. 292. AWARDING OF COSTS AND CERTAIN FEES.

26 USC 7431.

(a) **IN GENERAL.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as section 7431 and by inserting after section 7429 the following new section:

26 USC 7430.

#### “SEC. 7430. AWARDING OF COURT COSTS AND CERTAIN FEES.

“(a) **IN GENERAL.**—In the case of any civil proceeding which is—  
“(1) brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, and  
“(2) brought in a court of the United States (including the Tax Court),  
the prevailing party may be awarded a judgment for reasonable litigation costs incurred in such proceeding.

“(b) **LIMITATIONS.**—

“(1) **MAXIMUM DOLLAR AMOUNT.**—The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed \$25,000.

“(2) **REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.**—A judgment for reasonable litigation costs shall not be awarded under subsection (a) unless the court determines that the prevailing party has exhausted the administrative

remedies available to such party within the Internal Revenue Service.

“(3) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation costs which are allocable to the United States and not to any other party to the action or proceeding.

“(4) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

“(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

“(B) EXCEPTION FOR SECTION 501(c)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

“(c) DEFINITIONS.—For purposes of this section—

“(1) REASONABLE LITIGATION COSTS.—

“(A) IN GENERAL.—The term ‘reasonable litigation costs’ includes—

“(i) reasonable court costs,

“(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

“(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party’s case, and

“(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

“(B) ATTORNEY’S FEES.—In the case of any proceeding in the Tax Court, fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court shall be treated as fees for the services of an attorney.

“(2) PREVAILING PARTY.—

“(A) IN GENERAL.—The term ‘prevailing party’ means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved) which—

“(i) establishes that the position of the United States in the civil proceeding was unreasonable, and

“(ii) (I) has substantially prevailed with respect to the amount in controversy, or

“(II) has substantially prevailed with respect to the most significant issue or set of issues presented.

“(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

“(i) by the court, or

“(ii) by agreement of the parties.

“(3) CIVIL ACTIONS.—The term ‘civil proceeding’ includes a civil action.

“(d) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

“(1) multiple actions which could have been joined or consolidated, or

“(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court, such actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

“(e) RIGHT OF APPEAL.—An order granting or denying an award for reasonable litigation costs under subsection (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

“(f) TERMINATION.—This section shall not apply to any proceeding commenced after December 31, 1985.”

26 USC 6673.

(b) PENALTY FOR USING TAX COURT PROCEEDINGS FOR DELAY; PENALTY FOR FRIVOLOUS OR GROUNDLESS PROCEEDING.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: “Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer’s position in such proceedings is frivolous or groundless, damages in an amount not in excess of \$5,000 shall be awarded to the United States by the Tax Court in its decision.”

(c) APPLICATION WITH TITLE 28.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f) of such section). Nothing in the preceding sentence shall prevent the awarding under subsection (a) of section 2412 of title 28, United States Code, of costs enumerated in section 1920 of such title (as in effect on October 1, 1981).”

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

“Sec. 7430. Awarding of court costs and certain fees.

“Sec. 7431. Cross references.”

26 USC 6673.

(2)(A) The section heading of section 6673 is amended by striking out “MERELY FOR DELAY.” and inserting in lieu thereof “PRIMARILY FOR DELAY, ETC.”

(B) The table of sections for subchapter B of chapter 68 is amended by striking out “merely for delay.” in the item relating to section 6673 and inserting in lieu thereof “primarily for delay, etc.”

26 USC 7430  
note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to civil actions or proceedings commenced after February 28, 1983.

(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1982.

**SEC. 293. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.**

(a) **REMOVAL OF LIMITATION ON AMOUNT OF ORDINARY GROSS INCOME FROM LENDING OR FINANCE BUSINESS TAKEN INTO ACCOUNT.**—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out “but not \$1,000,000”.

26 USC 542.

(b) **CHANGES IN DEFINITION OF LENDING OR FINANCE BUSINESS.**—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

“(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

“(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower’s or transferor’s trade or business, or

“(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or”.

(c) **INDEFINITE MATURITY CREDIT TRANSACTIONS.**—Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

“(C) **INDEFINITE MATURITY CREDIT TRANSACTIONS.**—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

“(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

“(ii) under which the debtor may repay the loan or advance in full or in installments.”

(d) **EFFECTIVE DATES.**—

26 USC 542 note.

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) **SUBSECTIONS (b) AND (c).**—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

**SEC. 294. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.**

(a) **TIME FOR FILING CLAIM.**—Subparagraph (C) of section 231(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out “the first day of such 10th calendar month” and inserting in lieu thereof “December 31, 1982”.

26 USC 4063 note.

(b) **PROCEDURE FOR PASSING THROUGH REFUND.**—Subparagraph (A) of section 231(c)(2) of such Act is amended by inserting before the semicolon “, or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement”.

## TITLE III—TAXPAYER COMPLIANCE

### Subtitle A—Withholding on Interest and Dividends

#### SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

#### “Subchapter B—Withholding From Interest and Dividends

“Sec. 3451. Income tax collected at source on interest, dividends, and patronage dividends.

“Sec. 3452. Exemptions from withholding.

“Sec. 3453. Payor defined.

“Sec. 3454. Definitions of interest, dividend, and patronage dividend.

“Sec. 3455. Other definitions and special rules.

“Sec. 3456. Administrative provisions.

26 USC 3451.

#### “SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

“(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this subchapter, the payor of any interest, dividend, or patronage dividend shall withhold a tax equal to 10 percent of the amount of the payment.

“(b) SPECIAL RULES.—

“(1) TIME OF WITHHOLDING.—Except as otherwise provided in this subchapter, for purposes of this subchapter—

“(A) any payment of interest, dividend, or patronage dividend shall be treated as made, and

“(B) the tax imposed by this section shall be withheld, at the time such interest, dividend, or patronage dividend is paid or credited.

“(2) PAYEE UNKNOWN.—If a payor is unable to determine the person to whom any interest, dividend, or patronage dividend is payable or creditable, the tax under this section shall be withheld at the time withholding would be required under paragraph (1) if the payee were known and were an individual.

“(3) AMOUNT OF DIVIDEND, ETC., UNKNOWN.—

“(A) IN GENERAL.—If the payor is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution. To the extent provided in regulations, a similar rule shall apply in the case of interest and patronage dividends.

“(B) DISTRIBUTIONS WHICH ARE NOT DIVIDENDS.—To the extent provided in regulations, this section shall not apply to the extent that the portion of a distribution which is not a dividend may reasonably be estimated.

“(4) WITHHOLDING FROM ALTERNATIVE SOURCE.—The Secretary shall prescribe regulations setting forth the circumstances under which the tax imposed by this section may be paid from



an account or source other than the payment which gives rise to the liability for tax.

“(c) LIABILITY FOR PAYMENT.—

“(1) PAYOR LIABLE.—Except as otherwise provided in this subchapter, the payor—

“(A) shall be liable for the payment of the tax imposed by this section which such payor is required to withhold under this section, and

“(B) shall not be liable to any person (other than the United States) for the amount of any such payment.

“(2) RELIANCE ON EXEMPTION CERTIFICATES.—The payor shall not be liable for the payment of tax imposed by this section which such payor is required to withhold under this section if—

“(A) such payor fails to withhold such tax, and

“(B) such failure is due to reasonable reliance on an exemption certificate delivered to such payor under section 3452(f) which is in effect with respect to the payee at the time such tax is required to be withheld under this section.

“SEC. 3452. EXEMPTIONS FROM WITHHOLDING.

26 USC 3452.

“(a) IN GENERAL.—Section 3451 shall not apply with respect to—

“(1) any payment to an exempt individual,

“(2) any payment to an exempt recipient,

“(3) any minimal interest payment, or

“(4) any qualified consumer cooperative payment.

“(b) EXEMPT INDIVIDUALS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘exempt individual’ means any individual—

“(A) who is described in paragraph (2), and

“(B) with respect to whom an exemption certificate is in effect.

“(2) INDIVIDUALS DESCRIBED IN THIS PARAGRAPH.—An individual is described in this paragraph if—

“(A) such individual’s income tax liability for the preceding taxable year did not exceed \$600 (\$1,000 in the case of a joint return under section 6013), or

“(B)(i) such individual is 65 or older, and

“(ii) such individual’s income tax liability for the preceding taxable year did not exceed \$1,500 (\$2,500 in the case of a joint return under section 6013).

“(3) SPECIAL RULE FOR MARRIED PERSONS.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

“(A) either spouse is 65 or older, and

“(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

“(4) SPECIAL RULE FOR CERTAIN TRUSTS DISTRIBUTING CURRENTLY.—Under regulations, a trust—

“(A) the terms of which provide that all of its income is required to be distributed currently, and

“(B) all the beneficiaries of which are individuals described in paragraph (2) or organizations described in subsection (c)(2)(B),

shall be treated as an individual described in paragraph (2).

“(5) INCOME TAX LIABILITY.—For purposes of this subsection, the term ‘income tax liability’ means the amount of the tax imposed by subtitle A for the taxable year, reduced by the sum

26 USC 31, 39,  
43.

of the credits allowable against such tax (other than credits allowable by sections 31, 39, and 43).

“(c) EXEMPT RECIPIENTS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘exempt recipient’ means any person described in paragraph (2)—

“(A) with respect to whom an exemption certificate is in effect, or

“(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without certification.

“(2) PERSONS DESCRIBED IN THIS PARAGRAPH.—A person is described in this paragraph if such person is—

“(A) a corporation,

“(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

“(C) the United States or a State,

“(D) a foreign government or international organization,

“(E) a foreign central bank of issue,

“(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

“(G) a real estate investment trust (as defined in section 856),

“(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

“(I) a common trust fund (as defined in section 584(a)),

“(J) a nominee or custodian (except as otherwise provided in regulations),

“(K) to the extent provided in regulations—

“(i) a financial institution,

“(ii) a broker, or

“(iii) any other person specified in such regulations, who collects any interest, dividend, or patronage dividend for the payee or otherwise acts as a middleman between the payor and payee, or

“(L) any trust which—

“(i) is exempt from tax under section 664(c), or

“(ii) is described in section 4947(a)(1).

“(3) PAYOR MAY REQUIRE CERTIFICATION.—A person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if—

“(A) an exemption certificate is not in effect with respect to such person, and

“(B) the payor does not treat such person as an exempt recipient.

“(d) MINIMAL INTEREST PAYMENTS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘minimal interest payment’ means any payment of interest—

“(A) with respect to which an election by the payor made under paragraph (3) is in effect, and

“(B) which—

“(i) does not exceed \$150, and

“(ii) if determined for a 1-year period would not exceed \$150.

15 USC 80a-51.

“(2) AGGREGATION OF PAYMENTS TO SAME PAYEE.—To the extent provided in regulations prescribed by the Secretary, payments of interest by a payor to the same payee shall be aggregated for purposes of applying paragraph (1)(B).

“(3) ELECTION.—

“(A) IN GENERAL.—Any payor may make an election under this paragraph with respect to any type of interest payments.

“(B) EFFECTIVE UNTIL REVOKED.—Except as provided in regulations prescribed by the Secretary, an election made by any person under this paragraph shall remain in effect until revoked by such person.

“(C) TIME AND MANNER.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

“(e) QUALIFIED CONSUMER COOPERATIVE PAYMENT.—For purposes of this section, the term ‘qualified consumer cooperative payment’ means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

“(f) EXEMPTION CERTIFICATES.—

“(1) IN GENERAL.—

“(A) DELIVERY.—An exempt individual or exempt recipient may deliver an exemption certificate to a payor at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

“(B) CHANGE OF STATUS.—Any person who ceases to be an exempt individual or exempt recipient shall, not later than the close of the 10th day after the date of such cessation, notify each payor with whom such person has an exemption certificate of such change in status. No notice shall be required under the preceding sentence with respect to any payor if it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from such payor.

“(2) EFFECTIVENESS OF CERTIFICATES.—

“(A) GENERAL RULE.—Except as otherwise provided in regulations prescribed by the Secretary, an exemption certificate shall be effective until—

“(i) revoked, or

“(ii) notice of change in status is provided pursuant to paragraph (1)(B).

“(B) WHEN CERTIFICATE TAKES EFFECT.—The Secretary shall prescribe regulations setting forth—

“(i) the day on which a filed exemption certificate shall be considered effective, and

“(ii) the circumstances under which a payor shall treat an exemption certificate as having ceased to be effective where the Secretary has determined that the person described therein is not an exempt individual or exempt recipient.

“SEC. 3453. PAYOR DEFINED.

26 USC 3453.

“(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term ‘payor’ means the person paying or crediting the interest, dividend, or patronage dividend.

“(b) CERTAIN MIDDLEMEN TREATED AS PAYORS.—For purposes of this subchapter—

“(1) IN GENERAL.—To the extent provided in regulations—

“(A) any custodian for, or nominee of, the payee,

“(B) any corporate trustee of a trust which is the payee,

or

“(C) any person which collects the payment for the payee or otherwise acts as a middleman between the payor and the payee,

shall be treated as a payor with respect to the payment.

“(2) RECEIPT TREATED AS PAYMENT.—To the extent provided in regulations, any person treated as a payor under paragraph (1) shall be treated as having paid the interest, dividend, or patronage dividend when such person received such amount.

“(c) AGENTS, ETC.—In the case of—

“(1) a fiduciary or agent with respect to the payment or crediting of any interest, dividend, or patronage dividend, or

“(2) any other person who has the control, receipt, custody, or disposal of, or pays or credits any interest, dividend, or patronage dividend for any payor,

the Secretary, under regulations prescribed by him, may designate such fiduciary, agent, or other person as a payor with respect to such payment or crediting for purposes of this subchapter.

“(d) TREATMENT OF PERSONS TO WHOM SUBSECTION (b) OR (c) APPLIES.—Any person treated as a payor under subsection (b) or (c)—

“(1) shall perform such acts as are required of a payor (within the meaning of subsection (a)) and as may be specified by the Secretary, and

“(2) shall be treated as a payor for all provisions of law (including penalties) applicable in respect to a payor (within the meaning of subsection (a)).

“(e) RELIEF FROM DOUBLE WITHHOLDING.—The Secretary may by regulations provide that where any person is treated as a payor under subsection (b) or (c) with respect to any payment, any other person who (but for this subsection) would be treated as a payor with respect to such payment shall be relieved from the requirements of this subchapter to the extent provided in such regulations.

“(f) LIABILITY OF THIRD PARTIES PAYING OR PROVIDING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—To the extent provided in regulations prescribed by the Secretary, rules similar to the rules of section 3505 (relating to liability of third parties paying or providing for wages) shall apply for purposes of this subchapter. For purposes of the preceding sentence, the last sentence of subsection (b) of section 3505 shall be applied by substituting ‘10 percent’ for ‘25 percent’.

26 USC 3454.

“SEC. 3454. DEFINITIONS OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND.

“(a) INTEREST DEFINED.—For purposes of this subchapter—

“(1) GENERAL RULE.—The term ‘interest’ means—

“(A) interest on any obligation in registered form or of a type offered to the public,

“(B) interest on deposits with persons carrying on the banking business,

“(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association,

building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

“(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

“(E) interest on deposits with brokers (as defined in section 6045(c)), and

*Post*, p. 600.

“(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts.

“(2) EXCEPTIONS.—The term ‘interest’ does not include—

“(A) interest on any obligation issued by a natural person,

“(B) interest on any obligation if such interest is exempt from taxation under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

“(C) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for taxable years beginning before January 1, 1985)),

95 Stat. 267.

“(D) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount,

“(E) any amount which would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

“(i) such amount is income from sources outside the United States,

“(ii) the payor thereof is excepted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

“(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)),

“(F) any amount which is exempt from tax under—

“(i) section 892 (relating to income of foreign governments and of international organizations), or

“(ii) section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States or from bank deposits),

“(G) except to the extent otherwise provided in regulations, any amount paid by—

“(i) a foreign government or international organization or any agency or instrumentality thereof,

“(ii) a foreign central bank of issue,

“(iii) a foreign corporation not engaged in trade or business in the United States,

“(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

“(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident aliens, individuals and persons described in clause (i), (ii), or (iii),

“(H) any amount on which the person making payment is required to withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions), and

“(I) except to the extent otherwise provided in regulations, any amount not described in the foregoing provisions of this paragraph which is paid outside the United States and is income from sources outside the United States.

“(3) ADJUSTMENT FOR PENALTY BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—To the extent provided in regulations, the amount of any interest on a time savings account, certificate of deposit, or similar class of deposits shall be appropriately reduced for purposes of this subchapter by the amount of any penalty imposed for the premature withdrawal of funds.

“(b) DIVIDEND DEFINED.—For purposes of this subchapter—

“(1) GENERAL RULE.—The term ‘dividend’ means—

“(A) any distribution by a corporation which is a dividend (as defined in section 316), and

“(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

“(2) SUBCHAPTER S DISTRIBUTIONS AFTER CLOSE OF YEAR.—The term ‘dividend’ includes any distribution described in section 1375(f) (relating to distributions by electing small business corporations after the close of the taxable year).

“(3) EXCEPTIONS.—The term ‘dividend’ shall not include—

“(A) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities),

“(B) any amount which is treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), 306 (relating to disposition of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

“(C) any amount described in subparagraph (D), (E), or (F) of subsection (a)(2),

“(D) to the extent provided in regulations, any amount paid by a foreign corporation not engaged in a trade or business in the United States,

“(E) any amount which is a capital gain dividend distributed by—

“(i) a regulated investment company (as defined in section 852(b)(3)(C)), or

“(ii) a real estate investment trust (as defined in section 857(b)(3)(C)),

“(F) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

“(G) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) will be exempt-interest dividends, and

“(H) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

“(c) **PATRONAGE DIVIDEND.**—For purposes of this subchapter—

“(1) **IN GENERAL.**—The term ‘patronage dividend’ means—

“(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except a nonqualified written notice of allocation),

“(B) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers’ cooperatives from tax), and

“(C) any amount paid in money or other property (except written notice of allocation) in redemption of a nonqualified written notice of allocation attributable to any source described in subparagraph (A) or (B).

“(2) **EXCEPTIONS.**—The term ‘patronage dividend’ shall not include any amount described in subparagraph (D), (E), or (F) of subsection (a)(2).

“(3) **SPECIAL RULES.**—In determining the amount of any patronage dividend—

“(A) property (other than a written notice of allocation) shall be taken into account at its fair market value,

“(B) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

“(C) a patronage dividend part of which is a qualified written notice of allocation described in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such dividend is paid in money or by a qualified check, and any such qualified written notice of allocation which is taken into account after the application of this subparagraph shall be taken into account at its stated dollar amount.

“(4) **DEFINITIONS.**—For purposes of this subsection—

“(A) **QUALIFIED WRITTEN NOTICE OF ALLOCATION.**—The term ‘qualified written notice of allocation’ has the meaning given to such term by section 1388(c).

“(B) **NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.**—The term ‘nonqualified written notice of allocation’ has the meaning given to such term by section 1388(d).

“(C) **QUALIFIED CHECK.**—The term ‘qualified check’ has the meaning given to such term by section 1388(c)(4).

**“SEC. 3455. OTHER DEFINITIONS AND SPECIAL RULES.**

26 USC 3455.

“(a) **DEFINITIONS.**—For purposes of this subchapter—

“(1) **PERSON.**—The term ‘person’ includes any governmental unit and any agency or instrumentality thereof and any international organization.

“(2) **STATE.**—The term ‘State’ means a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

“(3) UNITED STATES.—The term ‘United States’ means the United States and any wholly owned agency or instrumentality thereof.

“(4) FOREIGN GOVERNMENT.—The term ‘foreign government’ means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

“(5) INTERNATIONAL ORGANIZATION.—The term ‘international organization’ means an international organization and any wholly owned agency or instrumentality thereof.

“(6) NONRESIDENT ALIEN.—The term ‘nonresident alien individual’ includes an alien resident of Puerto Rico.

“(7) WITHHOLD, ETC., INCLUDE DEDUCT.—The terms ‘withhold’, ‘withholding’, and ‘withheld’ include deduct, deducting, and deducted.

“(b) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

*Ante*, p. 576.

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) the tax imposed by section 3451 shall apply to the amount of original issue discount on any obligation which is includible in the gross income of the holder during the calendar year. Any such amount shall be treated as a payment for purposes of this subchapter.

“(2) TRANSFERRED OBLIGATIONS.—

“(A) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by section 3451 shall apply to such original issue discount as if the subsequent holder were the original holder.

“(B) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—In the case of any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder, if any subsequent purchaser establishes the date on which, and the purchase price at which, he acquired such obligation, the amount of original issue discount on such obligation shall be determined (subject to such regulations as the Secretary may prescribe) as if it were issued on the date such subsequent purchaser acquired such obligation for an issue price equal to the purchase price at which such subsequent purchaser acquired such obligation.

“(3) LIMITATION ON AMOUNT WITHHELD.—

“(A) IN GENERAL.—The amount of tax imposed by section 3451 on the original issue discount on any obligation which is required to be withheld under section 3451(a) in any calendar year shall not exceed the amount of cash paid with respect to such obligation during such calendar year.

“(B) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid the purposes of this subchapter, subparagraph (A) shall not apply with respect to original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

“(C) PAYMENTS FROM WHICH WITHHOLDING IS TO BE MADE.—Except to the extent otherwise provided in regulations, the tax imposed by section 3451 with respect to



original issue discount for any calendar year shall be withheld from each cash payment made with respect to such obligation during such calendar year in the proportion which the amount of such payment bears to the aggregate of such payments.

“(4) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this subsection, the term ‘original issue discount’ has the meaning given such term by section 1232(b)(1).

**“SEC. 3456. ADMINISTRATIVE PROVISIONS.**

26 USC 3456.

“(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the payor of any payment subject to withholding under section 3451 is the United States or a State, or an agency or instrumentality thereof, the return of the tax withheld under this subchapter shall be made by the officer or employee having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

“(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—

“(1) IN GENERAL.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 3454(a)(1) may elect to defer withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date which is not later than the last day of such year.

*Ante*, p. 580.

“(2) CONDITION FOR ELECTION.—The regulations prescribed under paragraph (1) shall provide that an election under such paragraph is conditional on agreement by the person making the election—

“(A) that the balance in any account subject to such election shall at no time be less than an amount equal to the tax under section 3451 which would have been withheld as of such time if such election were not in effect, and

“(B) that if an account subject to such election is closed before the date on which the tax under section 3451 would (but for this subparagraph) be withheld as a result of such an election, the tax shall be withheld before the time of closing such account.

“(c) TAX PAID BY RECIPIENT.—If a payor, in violation of the provisions of this subchapter, fails to withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be withheld shall not be collected from the payor; but this subsection shall in no case relieve the payor from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter.”

**SEC. 302. CREDIT AGAINST TAX.**

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended to read as follows: 26 USC 31.

**“SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.**

“(a) WAGE WITHHOLDING.—The amount withheld under section 3402 as tax on the wages of any individual shall be allowed to the

recipient of the income as a credit against the tax imposed by this subtitle.

“(b) **WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.**—The amount withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

“(c) **CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.**—The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

“(d) **YEAR FOR WHICH CREDIT ALLOWED.**—

“(1) **IN GENERAL.**—Except as otherwise provided in paragraph (2), any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

“(2) **SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.**—The amount withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(b)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends.”

(b) **TREATMENT OF ESTATES AND TRUSTS.**—

26 USC 643.

(1) **IN GENERAL.**—Section 643 (relating to definitions applicable to estates and trusts) is amended by adding at the end thereof the following new subsection:

“(d) **COORDINATION WITH WITHHOLDING ON INTEREST AND DIVIDENDS.**—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under subchapter B of chapter 24—

“(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b) (on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under this subchapter),

“(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit had been paid to him by the estate or trust, and

“(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries.”

26 USC 661.

(2) **TECHNICAL AMENDMENT.**—Subsection (a) of section 661 (relating to deduction for estates and trusts accumulating income or distributing corpus) is amended by adding at the end thereof the following new sentence: “For purposes of paragraph (1), the amount of distributable net income shall be computed without the deduction allowed by section 642(c).”

26 USC 6413

(c) **CONFORMING AMENDMENT.**—Paragraph (1) of section 6413(c) is amended by striking out “section 31(b)” and inserting in lieu thereof “section 31(c)”.

## SEC. 303. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND PAYMENTS OF INTEREST.

## (a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended— 26 USC 6042.

- (A) by striking out “or” at the end of subparagraph (A),
- (B) by inserting “or” at the end of subparagraph (B),
- (C) by inserting after subparagraph (B) the following new subparagraph:

“(C) who is required to withhold tax under section 3451 on any payment of dividends,” *Ante*, p. 576.

- (D) by striking out the period at the end thereof, and
- (E) by inserting the following at the end thereof “, and, in the case of a payment upon which tax is withheld, the amount of tax withheld.”

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

- (A) by striking out “and” at the end of paragraph (1),
- (B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “, and”,
- (C) by inserting after paragraph (2) the following paragraph:
  - “(3) the amount of tax withheld under section 3451.”, and
  - (D) by striking out “No statement” in the last sentence thereof and inserting in lieu thereof “Except in the case of a return required by reason of subparagraph (C) of subsection (a)(1), no statement”.

(3) DUPLICATE FILED WITH SECRETARY.—Section 6042 is amended by adding at the end thereof the following new subsection:

“(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary.”

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection: *Post*, p. 591.

“(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary.”

## SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows: 26 USC 6044.

“(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies which—

- “(A) makes payments of amounts described in subsection (b) aggregating \$10 or more to any person during any calendar year, or

“(B) is required to withhold any tax under section 3451, shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount

of such payments, the name and address of the person to whom paid, and the amount of tax withheld.”

26 USC 6044. (b) AMOUNTS SUBJECT TO REPORTING.—Paragraph (1) of section 6044(b) (relating to amounts subject to reporting) is amended by striking out “under subsection (a)”, and by inserting “under paragraph (1)(A) or (2) of subsection (a)”.

(c) STATEMENTS.—Section 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out “and” at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting “, and” in lieu thereof,

(3) by inserting after paragraph (2) the following paragraph: “(3) the amount of tax withheld under section 3451.”, and

(4) by striking out “No statement” in the last sentence thereof and inserting in lieu thereof “Except in the case of a return required by reason of subparagraph (B) of subsection (a)(1), no statement”.

(d) DUPLICATE FILED WITH SECRETARY.—Section 6044 is amended by adding at the end thereof the following new subsection:

“(f) DUPLICATE OF SUBSECTION (e) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (e) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary.”

#### SEC. 305. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

26 USC 275. (a) NO DEDUCTION FOR TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended—

(1) by striking out “and” at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, and”, and

(3) by inserting after subparagraph (C) the following subparagraph:

“(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451.”

26 USC 3502. (b) NO DEDUCTION OF TAXES WITHHELD ON INTEREST AND DIVIDENDS IN DETERMINING TAXABLE INCOME.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended—

(1) by striking out “under chapter 24” and inserting in lieu thereof “under subchapter A of chapter 24”, and

(2) by adding at the end thereof the following new subsection:

“(c) The tax withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person withholding the tax or to the recipient of the amounts subject to withholding.”

#### SEC. 306. PENALTIES.

26 USC 6682. (a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting “or section 3452(f)(1)(A)” after “section 3402”.

26 USC 7205. (b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

- (1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and
- (2) by adding at the end thereof the following new subsection:
- "(b) WITHHOLDING OF INTEREST AND DIVIDENDS.—Any person who—
- "(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or
- "(2) is required to furnish notice under section 3452(f)(1)(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,
- shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than \$500, or imprisoned not more than 1 year, or both."

*Ante*, p. 577.

#### SEC. 307. CONFORMING AND CLERICAL AMENDMENTS.

##### (a) CONFORMING AMENDMENTS.—

- (1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 274.
- (2) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter". 26 USC 3403.
- (3) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 3507.
- (4) Subchapter (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages". 26 USC 6013.
- (5) Paragraph (1) of section 6013(h) is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".
- (6) Paragraph (1) of section 6015(j) (relating to declaration of estimated income tax by individuals) is amended by striking out ", as defined in section 3401(a)," and inserting in lieu thereof "(as defined in section 3401(a)) , or to the interest, dividends, and patronage dividends (as defined in section 3454),". 95 Stat. 345.
- (7) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 6051.
- (8) Paragraph (2) of section 6365(c) (relating to definitions and special rules for purposes of the collection of State individual income taxes) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date". 26 USC 6365.
- (9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages". 26 USC 6401.
- (10) Paragraph (1) of section 6413(a) (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402

or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts.”.

26 USC 6413.

(11) Subsection (b) of section 6413 is amended—

(A) by striking from the heading of such subsection the words “OF CERTAIN EMPLOYMENT TAXES”, and

(B) by striking out “or 3402 is paid or deducted with respect to any payment of remuneration” and inserting in lieu thereof “3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount”.

(12) The heading for section 6413 is amended to read as follows:

**“SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C.”**

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

**“Sec. 6413. Special rules applicable to certain taxes under subtitle C.”**

26 USC 6654.

(14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld at source on wages”.

26 USC 7215.

(15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: “For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person.”

26 USC 7654.

(16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting “subchapter A of” before “chapter 24”.

26 USC 7701.

(17) Section 7701(a)(16) (defining the term “withholding agent”) is amended by striking out “or 1461” and inserting in lieu thereof “1461 or 3451”.

(b) **CLERICAL AMENDMENTS.—**

(1) The heading of subtitle C is amended to read as follows:

### **“Subtitle C—Employment Taxes and Collection of Income Tax at Source”.**

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

**“SUBTITLE C. Employment taxes and collection of income tax at source.”**

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 31 and inserting in lieu thereof the following:

**“Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends.”**

(4) Chapter 24 is amended by striking out the chapter heading and inserting in lieu thereof the following:

## **“CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE**

“SUBCHAPTER A. Withholding from wages.

“SUBCHAPTER B. Withholding from interest and dividends.

### **“Subchapter A—Withholding From Wages”.**

(5) The heading for chapter 25 is amended to read as follows:

## **“CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE”.**

(6) The table of chapters for subtitle C is amended by striking out the items relating to chapters 24 and 25 and inserting in lieu thereof the following:

“CHAPTER 24. Collection of income tax at source.

“CHAPTER 25. General provisions relating to employment taxes and collection of income taxes at source.”

### **SEC. 308. EFFECTIVE DATES; SPECIAL RULES.**

26 USC 3451  
note.

(a) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by this part shall apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983.

(b) **DELAY IN APPLICATION TO CERTAIN PAYORS.**—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond December 31, 1983) the application of some or all of the provisions of subchapter B of chapter 24 of the Internal Revenue Code of 1954 to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(c) **TEMPORARY RULE FOR CERTAIN WITHHOLDING EXEMPTIONS.**—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient.

*Ante*, p. 577.

(d) **DELAY IN MAKING DEPOSITS.**—The time for making deposits under section 6302 of the Internal Revenue Code of 1954 of the tax imposed by section 3451 of such Code which is withheld by any person shall, to the extent provided in regulations, take into account the cost to such person of instituting a withholding system in order to comply with subchapter B of chapter 24 of such Code.

## **Subtitle B—Improved Information Reporting**

### **PART I—EXPANDED REPORTING**

#### **SEC. 309. REPORTING OF INTEREST.**

(a) **GENERAL RULE.**—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

26 USC 6049.

**"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.****"(a) REQUIREMENT OF REPORTING.—**Every person—**"(1)** who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year,**"(2)** who receives payments of interest (as so defined) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received, or**"(3)** who is required under subchapter B of chapter 24 to withhold tax on the payment of any interest, shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld.**"(b) INTEREST DEFINED.—****"(1) GENERAL RULE.—**For purposes of subsection (a), the term 'interest' means—**"(A) interest on any obligation—****"(i)** issued in registered form, or**"(ii)** of a type offered to the public, other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,**"(B) interest on deposits with persons carrying on the banking business,****"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,****"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,****"(E) interest on deposits with brokers (as defined in section 6045 (c)),****"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and****"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).****"(2) EXCEPTIONS.—**For purposes of subsection (a), the term 'interest' does not include—**"(A) interest on any obligation issued by a natural person,****"(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,****"(C) except to the extent otherwise provided in regulations—****"(i)** any amount paid to any person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or*Post*, p. 600.*Ante*, p. 577.



“(ii) any amount described in section 3454(a)(2)(D) or (E),

“(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

“(i) a foreign government or international organization or any agency or instrumentality thereof,

“(ii) a foreign central bank of issue,

“(iii) a foreign corporation not engaged in a trade or business in the United States,

“(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

“(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii), and

“(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

“(3) PAYMENTS BY UNITED STATES NOMINEES, ETC., OF UNITED STATES PERSON.—If, within the United States, a United States person—

“(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

“(B) makes payments of such interest to such second United States person, notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

“(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—

“(1) IN GENERAL.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

“(A) the name and address of the person making such return,

“(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

“(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

“(2) STATEMENT MUST BE FURNISHED ON OR BEFORE JANUARY 31.—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(3) NO STATEMENT REQUIRED WHERE INTEREST IS LESS THAN \$10.—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than \$10.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) PERSON.—The term ‘person’ includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

“(2) OBLIGATION.—The term ‘obligation’ includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

“(3) PAYMENTS BY GOVERNMENTAL UNITS.—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

“(4) FINANCIAL INSTITUTIONS, BROKERS, ETC., COLLECTING INTEREST MAY BE SUBSTITUTED FOR PAYOR.—To the extent and in the manner provided by regulations, in the case of any obligation—

“(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

“(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

“(5) INTEREST ON CERTAIN OBLIGATIONS MAY BE TREATED ON A TRANSACTIONAL BASIS.—

“(A) IN GENERAL.—To the extent and in the manner provided in regulations, this section shall apply with respect to—

“(i) any person described in paragraph (4)(A), and

“(ii) in the case of any United States savings bonds, any Federal agency making payments thereon, on any transactional basis rather than on an annual aggregation basis.

“(B) SEPARATE RETURNS AND STATEMENTS.—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

“(C) STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING \$10 OR MORE.—In the case of any transaction to which this paragraph applies which involves the payment of \$10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such

statement shall be provided during January of the year following the year in which such payment is made.

“(6) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

“(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

“(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

*Ante*, p. 496.

“(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

“(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term ‘original issue discount’ has the meaning given to such term by section 1232(b)(1).”

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6041 (relating to information at source) is amended— 26 USC 6041.

(A) by striking out “6049(a)(1)” and inserting in lieu thereof “6049(a)”, and

(B) by striking out “6045, 6049(a)(2), or 6049(a)(3)” and inserting in lieu thereof “or 6045”.

(2) Subsection (b) of section 6652 (relating to failure to file certain information returns) is amended by adding “or” at the end of paragraph (1) and by striking out paragraphs (3) and (4). 95 Stat. 343.

(3) Paragraph (1) of section 6678 is amended by striking out “6049(a)(1)” and inserting in lieu thereof “6049(a)”. 26 USC 6678.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid (or treated as paid) after December 31, 1982. 26 USC 6049 note.

SEC. 310. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

“SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form. 31 USC 757c-5.

“(b) For purposes of this section—

“(1) Except as provided in paragraph (2), the term ‘registration-required obligation’ means any obligation other than an obligation which—

“(A) is not of a type offered to the public, or

“(B) has a maturity (at issue) of not more than 1 year.

“(2) The term ‘registration-required obligation’ shall not include any obligation if—

“(A) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

“(B) in the case of an obligation not in registered form—

“(i) interest on such obligation is payable only outside the United States and its possessions, and

“(ii) on the face of such obligation there is a statement that any United States person who holds such

obligation will be subject to limitations under the United States income tax laws.

“(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

“(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.”.

(b) OTHER OBLIGATIONS.—

95 Stat. 350.

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

“(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

“(2) REGISTRATION-REQUIRED OBLIGATION.—The term ‘registration-required obligation’ means any obligation other than an obligation which—

“(A) is not of a type offered to the public,

“(B) has a maturity (at issue) of not more than 1 year, or

“(C) is described in section 163(f)(2)(B).

“(3) SPECIAL RULES.—

“(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

“(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees.”

*Ante*, p. 498.

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

“(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

“(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

“(A) IN GENERAL.—The term ‘registration-required obligation’ means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

“(i) is issued by a natural person,

“(ii) is not of a type offered to the public,

“(iii) has a maturity (at issue) of not more than 1 year, or

“(iv) is described in subparagraph (B).

“(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

“(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

“(ii) in the case of an obligation not in registered form—

“(I) interest on such obligation is payable only outside the United States and its possessions, and

“(II) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

“(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A), and subparagraph (B), shall not apply to any obligation if—

“(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and

“(ii) such obligation is issued after the date on which the regulations referred to in clause (i) take effect.

“(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply.” 95 Stat. 350.

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

26 USC 312.

“(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not or would not be allowable by reason of section 163(f), unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(f) of this subsection”.

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

## “CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

“Sec. 4701. Tax on issuer of registration-required obligation not in registered form.

26 USC 4701.

**"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.**

"(a) **IMPOSITION OF TAX.**—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) **DEFINITIONS.**—For purposes of this section—

"(1) **REGISTRATION-REQUIRED OBLIGATION.**—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) **REGISTERED FORM.**—The term 'registered form' has the same meaning as when used in section 163(f)."

(B) **CONFORMING AMENDMENT.**—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"CHAPTER 39. Registration-required obligations."

*Ante*, p. 422.

(5) **DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.**—Section 165 (as amended by this Act) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) **DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.**—

"(1) **IN GENERAL.**—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

"(2) **DEFINITIONS.**—For purposes of this subsection—

"(A) **REGISTRATION-REQUIRED OBLIGATION.**—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) **REGISTERED FORM.**—The term 'registered form' has the same meaning as when used in section 163(f).

"(3) **EXCEPTIONS.**—The Secretary may, by regulations, provide that this subsection and subsection (d) of section 1232 shall not apply with respect to obligations held by any person if—

"(A) such person holds such obligations in connection with a trade or business outside the United States,

"(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

"(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

"(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C)."

(6) **DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.**—Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

26 USC 1232.

"(d) **DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.**—

"(1) **IN GENERAL.**—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(2) **DEFINITIONS.**—For purposes of this subsection—

"(A) **REGISTRATION-REQUIRED OBLIGATION.**—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) **REGISTERED FORM.**—The term 'registered form' has the same meaning as when used in section 163(f)."

(c) **TECHNICAL AMENDMENTS.**—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and".

26 USC 103.

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "MUST BE IN REGISTERED FORM AND Not" and inserting in lieu thereof "MUST NOT BE".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 103A.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) **EFFECTIVE DATES.**—

26 USC 103 note.

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 1982.

31 USC 752. (2) **LONG-TERM U.S. OBLIGATIONS.**—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act under the first section of the Second Liberty Bond Act.

15 USC 77a. (3) **EXCEPTION FOR CERTAIN WARRANTS, ETC.**—The amendments made by subsection (b) shall not apply to any obligations issued after December 31, 1982, on the exercise of a warrant or the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. A rule similar to the rule of the preceding sentence shall also apply in the case of any regulations issued under section 163(f)(2)(C) of the Internal Revenue Code of 1954 (as added by this section) except that the date on which such regulations take effect shall be substituted for “August 10, 1982”.

#### SEC. 311. RETURNS OF BROKERS.

26 USC 6045. (a) **GENERAL RULE.**—

(1) **RETURNS.**—Section 6045 (relating to returns of brokers) is amended to read as follows:

##### “SEC. 6045. RETURNS OF BROKERS.

“(a) **GENERAL RULE.**—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

“(b) **STATEMENTS TO BE FURNISHED TO CUSTOMERS.**—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

“(1) the name and address of the person making such return, and

“(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **BROKER.**—The term ‘broker’ includes—

“(A) a dealer,

“(B) a barter exchange, and

“(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

“(2) **CUSTOMER.**—The term ‘customer’ means any person for whom the broker has transacted any business.

“(3) **BARTER EXCHANGE.**—The term ‘barter exchange’ means any organization of members providing property or services who jointly contract to trade or barter such property or services.”

26 USC 6678.

(2) **PENALTY.**—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

(A) by inserting “6045(b),” after “6044(e),” and

(B) by inserting “6045(a),” after “6044(a)(1),”.



(b) **BARTER EXCHANGE TREATED AS THIRD-PARTY RECORDKEEPER.**—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out “and” at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new subparagraph:

26 USC 7609.

“(G) any barter exchange (as defined in section 6045(c)(3)).”

(c) **EFFECTIVE DATES.**—

26 USC 6045 note.

(1) **SUBSECTION (a).**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to summonses served after December 31, 1982.

26 USC 7609 note.

**SEC. 312. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.**

(a) **GENERAL RULE.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

**SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.**

26 USC 6041A.

“(a) **RETURNS REGARDING REMUNERATION FOR SERVICES.**—If—

“(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

“(2) the aggregate of such remuneration paid to such person during such calendar year is \$600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term ‘service-recipient’ means the person for whom the service is performed.

“Service-recipient.”

“(b) **DIRECT SALES OF \$5,000 OR MORE.**—

“(1) **IN GENERAL.**—If—

“(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

“(B) the aggregate amount of the sales to such buyer during such calendar year is \$5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) BUY-SELL BASIS.—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer’s remuneration for the services, and

“(B) DEPOSIT-COMMISSION BASIS.—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer’s remuneration for the services.

“(c) CERTAIN SERVICES NOT INCLUDED.—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

“(d) APPLICATIONS TO GOVERNMENTAL UNITS.—

“(1) TREATED AS PERSONS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

“(2) SPECIAL RULES.—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

“(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

“(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

“(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return, and

“(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(f) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

“(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

“(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.”

95 Stat. 344.

(b) PENALTY FOR FAILURE TO FILE STATEMENT.—Section 6678(1) (relating to failure to file statement) is amended—

(1) by inserting “6041A(e),” after “6041(d),” and

(2) by inserting “6041A(a) or (b),” after “6041(a),”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments and sales made after December 31, 1982. 26 USC 6041A note.

**SEC. 313. STATE AND LOCAL INCOME TAX REFUNDS.**

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

**“SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.**

26 USC 6050E.

“(a) **REQUIREMENT OF REPORTING.**—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating \$10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

“(b) **STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

“(1) the name of the State or political subdivision thereof, and

“(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

“(c) **PERSON DEFINED.**—For purposes of this section, the term ‘person’ means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section.”

(b) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Sec. 6050E. State and local income tax refunds.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

26 USC 6050E note.

**SEC. 314. EMPLOYER REPORTING WITH RESPECT TO TIPS.**

(a) **IN GENERAL.**—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection: 26 USC 6053.

“(c) **REPORTING REQUIREMENTS RELATING TO CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS.**—

“(1) **REPORT TO SECRETARY.**—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

“(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

“(B) The aggregate amount of charge receipts (other than nonallocable receipts).

“(C) The aggregate amount of charged tips shown on such charge receipts.

“(D) The sum of—

“(i) the aggregate amount reported by employees to the employer under subsection (a), plus

26 USC 6051.

“(ii) the amount the employer is required to report under section 6051 with respect to service charges of less than 10 percent.

“(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

“(2) FURNISHING OF STATEMENT TO EMPLOYEES.—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

“(A) The name and address of such employer.

“(B) The name of the employee.

“(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

“(3) EMPLOYEE ALLOCATION OF 8 PERCENT OF GROSS RECEIPTS.—

“(A) IN GENERAL.—For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

“(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

“(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

“(B) METHOD OF ALLOCATION.—The employer shall allocate the amount under subparagraph (A)—

“(i) on the basis of a good faith agreement by the employer and the employees, or

“(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

“(C) THE SECRETARY MAY LOWER THE PERCENTAGE REQUIRED TO BE ALLOCATED.—The Secretary may reduce (but not below 5 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

“(4) LARGE FOOD OR BEVERAGE ESTABLISHMENT.—For purposes of this subsection, the term ‘large food or beverage establishment’ means any trade or business (or portion thereof)—

“(A) which provides food or beverages,

“(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

“(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

“(5) EMPLOYER NOT TO BE LIABLE FOR WRONG ALLOCATIONS.—The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(B) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(B).

“(6) NONALLOCABLE RECEIPTS DEFINED.—For purposes of this subsection, the term ‘nonallocable receipts’ means receipts which are allocable to—

“(A) carryout sales, or

“(B) services with respect to which a service charge of 10 percent or more is added.

“(7) APPLICATION TO NEW BUSINESSES.—The Secretary shall prescribe regulations for the application of this subsection to new businesses.”

(b) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Subparagraph (D) of section 6678(3) is amended by striking out “section 6053(b)” and inserting in lieu thereof “subsection (b) or (c) of section 6053(c).”

95 Stat. 343.

(c) STUDY OF TIP COMPLIANCE.—The Secretary of the Treasury or his delegate shall submit before January 1, 1987, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report with respect to tip compliance in the food and beverage service industry. Such study shall include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

Report to congressional committees.  
26 USC 6053 note.

(d) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting “, records necessary to comply with section 6053(c),” after “charge receipts”.

26 USC 6001.

(e) EFFECTIVE DATES.—

26 USC 6053 note.

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

(2) SPECIAL RULE FOR 1983.—For purposes of section 6053(c) of the Internal Revenue Code of 1954, in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.

## PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

### SEC. 315. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURN OR TO FURNISH STATEMENT.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows:

26 USC 6652.

“(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

“(1) IN GENERAL.—In the case of each failure—

“(A) to file a statement of the amount of payments to another person required by—

“(i) section 6041 (a) or (b) (relating to certain information at source),

“(ii) section 6042(a)(1) (relating to payments of dividends),

“(iii) section 6044(a)(1) (relating to payments of patronage dividends),

“(iv) section 6049(a) (relating to payments of interest),

“(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

“(vi) section 6042(e), 6044(f), 6049(e), or 6051(d) (relating to information returns with respect to income tax withheld), or

“(B) to make a return required by—

“(i) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

“(ii) section 6045 (relating to returns of brokers),

“(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

“(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), \$50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$50,000.

“(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

“(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

“(i) in the case of a return not described in clauses (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

“(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

“(iii) in the case of a return required to be filed by section 6041A(b), \$100 for each such failure, and

“(B) the \$50,000 limitation under paragraph (1) shall not apply.”

(b) INCREASE IN ADDITION TO TAX FOR FAILURE TO FILE CERTAIN RETURNS OR STATEMENTS IN CONNECTION WITH PLANS OF DEFERRED COMPENSATION.—Subsection (f) of section 6652 (relating to information required in connection with certain plans of deferred compensation) is amended—

(1) by striking out “\$10” and inserting in lieu thereof “\$25”, and

(2) by striking out “\$5,000” and inserting in lieu thereof “\$15,000”.

*Ante*, p. 592.

*Ante*, pp. 587, 588.

*Ante*, p. 601.

*Ante*, p. 600.

(c) **INCREASE IN CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.**—Section 6678 (relating to failure to furnish certain statements) is amended—

26 USC 6678.

- (1) by striking out “\$10” and inserting in lieu thereof “\$50”, and
- (2) by striking out “\$25,000” and inserting in lieu thereof “\$50,000”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.

26 USC 6652 note.

**SEC. 316. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.**

(a) **IN GENERAL.**—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

26 USC 6676.

“(a) **CIVIL PENALTIES.**—

“(1) **IN GENERAL.**—If any person who is required by regulations prescribed under section 6109—

“(A) to include his taxpayer identification number in any return, statement, or other document,

“(B) to furnish his taxpayer identification number to another person, or

“(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of \$5 for each such failure described in subparagraph (A) and \$50 for each such failure described in subparagraph (B) or (C), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

“(2) **TAXPAYER IDENTIFICATION NUMBER DEFINED.**—The term ‘taxpayer identification number’ means the identifying number assigned to a person under section 6109.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

26 USC 6676 note.

**SEC. 317. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.**

(a) **IN GENERAL.**—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

26 USC 3402.

“(s) **EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.**—

“(1) **IN GENERAL.**—If, in the case of any backup withholding payment—

“(A) the payee fails to furnish his taxpayer identification number to the payor, or

“(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

“(2) **PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.**—

“(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which the taxpayer identification number has not been furnished.

“(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

“(i) after the close of the 15th day after the day on which the payor was so notified, and

“(ii) before the payee furnishes another taxpayer identification number.

“(C) 15-DAY GRACE PERIODS.—

“(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 16th day after the close of such period.

“(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 15-day period described in clause (i) of subparagraph (B).

“(3) BACKUP WITHHOLDING PAYMENTS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘backup withholding payment’ means any payment of a kind, and to a payee, required to be shown on a return required under—

“(i) section 6041 (a) or (b) (relating to certain information at source),

“(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

“(iii) section 6042(a) (relating to payments of dividends),

“(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

“(v) section 6045 (relating to returns of brokers),

“(vi) section 6049(a) (relating to payments of interest),

or

“(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

“(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

“(4) PAYMENTS MUST AGGREGATE \$600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041 (a) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

*Ante*, p. 600.

*Ante*, p. 592.

*Ante*, p. 601.



“(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds \$600,

“(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

“(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

“(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished does not contain the proper number of digits.

“(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

“(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

“(i) the United States (as defined in section 3455(a)(3)),

*Ante*, p. 583.

“(ii) any State (as defined in section 3455(a)(2)),

“(iii) an organization which is exempt from taxation under section 501(a),

“(iv) any foreign government (as defined in section 3455(a)(4)) or international organization (as defined in section 3455(a)(5)), or

“(v) any other person specified in regulations.

“(D) TAXPAYER IDENTIFICATION NUMBER.—The term ‘taxpayer identification number’ means the identifying number assigned to a person under section 6109.

“(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

“(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

“(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

“(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a

copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

“(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

“(J) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee.”

26 USC 3402  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

#### SEC. 318. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

26 USC 6651.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence:

“In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.”

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by adding at the end of subparagraph (A) the following new sentence: “In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.”, and

(2) by inserting “(determined without regard to the last sentence of such subsection)” after “paragraph (1) of subsection (a)” in subparagraph (B).

26 USC 6651  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

#### SEC. 319. INFORMATION RETURNS.

26 USC 6011.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account

(among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement.”

## **Subtitle C—Abusive Tax Shelters, Etc.; Substantial Underpayments; False Documents; Frivolous Returns**

### **PART I—ABUSIVE TAX SHELTERS, ETC.**

#### **SEC. 320. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.**

(a) **GENERAL RULE.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

#### **“SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC.**

26 USC 6700.

“(a) **IMPOSITION OF PENALTY.**—Any person who—

“(1)(A) organizes (or assists in the organization of)—

“(i) a partnership or other entity,

“(ii) any investment plan or arrangement, or

“(iii) any other plan or arrangement, or

“(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

“(2) makes or furnishes (in connection with such organization or sale)—

“(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

“(B) a gross valuation overstatement as to any material matter,

shall pay a penalty equal to the greater of \$1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

“(b) **RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.**—

“(1) **GROSS VALUATION OVERSTATEMENT DEFINED.**—For purposes of this section, the term ‘gross valuation overstatement’ means any statement as to the value of any property or services if—

“(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

“(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

“(2) **AUTHORITY TO WAIVE.**—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

“(c) **PENALTY IN ADDITION TO OTHER PENALTIES.**—The penalty imposed by this section shall be in addition to any other penalty provided by law.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

“Sec. 6700. Promoting abusive tax shelters, etc.”

26 USC 6700  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

**SEC. 321. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.**

26 USC 7409.

(a) **GENERAL RULE.**—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

26 USC 7408.

**“SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.**

“(a) **AUTHORITY TO SEEK INJUNCTION.**—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

“(b) **ADJUDICATION AND DECREE.**—In any action under subsection (a), if the court finds—

“(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

“(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

“(c) **CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.**—If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.

“Sec. 7409. Cross references.”

26 USC 7408  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

**SEC. 322. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.**

(a) **GENERAL RULE.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

**“SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.** 26 USC 6703.

“(a) **BURDEN OF PROOF.**—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

“(b) **DEFICIENCY PROCEDURES NOT TO APPLY.**—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

“(c) **EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.**—

“(1) **IN GENERAL.**—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

“(2) **PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.**—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

“(3) **SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.**—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

“Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

26 USC 6703  
note.

## **PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.**

### **SEC. 323. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.**

(a) **IN GENERAL.**—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section:

26 USC 6662.

26 USC 6661.

**"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.**

"(a) **ADDITION TO TAX.**—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) **DEFINITION AND SPECIAL RULE.**—

"(1) **SUBSTANTIAL UNDERSTATEMENT.**—

"(A) **IN GENERAL.**—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) \$5,000.

"(B) **SPECIAL RULE FOR CORPORATIONS.**—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '\$10,000' for '\$5,000'.

"(2) **UNDERSTATEMENT.**—

"(A) **IN GENERAL.**—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return.

"(B) **REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.**—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) **SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.**—

"(i) **IN GENERAL.**—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) **TAX SHELTER.**—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

“(3) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under section 6659 (relating to addition to tax in the case of valuation overstatements).

95 Stat. 341.

“(c) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.”

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 6661. Substantial understatement of liability.

“Sec. 6662. Applicable rules.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982.

26 USC 6661  
note.

#### SEC. 324. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

#### “SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

26 USC 6701.

“(a) IMPOSITION OF PENALTY.—Any person—

“(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

“(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

“(3) who knows that such portion (if so used) will result in an understatement of the liability for tax of another person, shall pay a penalty with respect to each such document in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

“(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

“(3) ONLY 1 PENALTY PER PERSON PER PERIOD.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

“(c) ACTIVITIES OF SUBORDINATES.—

“(1) IN GENERAL.—For purposes of subsection (a), the term ‘procures’ includes—

“(A) ordering (or otherwise causing) a subordinate to do an act, and

“(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

“(2) SUBORDINATE.—For purposes of paragraph (1), the term ‘subordinate’ means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

“(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

“(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

“(f) PENALTY IN ADDITION TO OTHER PENALTIES.—

“(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

“(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

“Sec. 6701. Penalties for aiding and abetting understatement of tax liability.”

26 USC 6701  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

#### SEC. 325. FRAUD PENALTY.

26 USC 6653.

(a) GENERAL RULE.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

“(b) FRAUD.—

“(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

“(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO FRAUD.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

“(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and

“(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).



“(3) NO NEGLIGENCE ADDITION WHEN THERE IS ADDITION FOR FRAUD.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).

“(4) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act.

26 USC 6653  
note.

#### SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6701 the following new section:

##### “SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

26 USC 6702.

“(a) CIVIL PENALTY.—If—

“(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

“(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

“(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

“(2) the conduct referred to in paragraph (1) is due to—

“(A) a position which is frivolous, or

“(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of \$500.

“(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

“Sec. 6702. Frivolous income tax return.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

26 USC 6702  
note.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

#### SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: “In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure.”

26 USC 7203.

## SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

## (a) WAIVER OF PENALTY WHERE INDIVIDUAL DID NOT HAVE TAX LIABILITIES FOR PRECEDING TAXABLE YEAR.—

95 Stat. 346.

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) EXCEPTION WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

“(1) the individual did not have any liability for tax for the preceding taxable year,

“(2) the preceding taxable year was a taxable year of 12 months, and

“(3) the individual was a citizen or resident of the United States throughout the preceding taxable year.”

(2) Subsection (g) of section 6654 is amended by striking out “and (f)” and inserting in lieu thereof “(f), and (h)”.

## (b) ELIMINATION OF REQUIREMENTS TO FILE DECLARATIONS OF ESTIMATED TAX.—

95 Stat. 345.

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

“(k) TERMINATION.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982.”

26 USC 6073.

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

“(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1982.”

26 USC 6153.

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

“(g) SPECIAL RULES FOR TAXABLE YEARS BEGINNING AFTER 1982.—In the case of taxable years beginning after 1982—

“(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

“(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654.”

26 USC 6015  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

## SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

26 USC 7201.

(a) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out “\$10,000” and inserting in lieu thereof “\$100,000 (\$500,000 in the case of a corporation)”.

26 USC 7203.

(b) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out “\$10,000” and inserting in lieu thereof “\$25,000 (\$100,000 in the case of a corporation)”.

26 USC 7206.

(c) FRAUD AND FALSE STATEMENTS.—Section 7206 (relating to fraud and false statements) is amended by striking out “\$5,000” and inserting in lieu thereof “\$100,000 (\$500,000 in the case of a corporation)”.

(d) **FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.**—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out “\$1,000” each place it appears and inserting in lieu thereof “\$10,000 (\$50,000 in the case of a corporation)”.

26 USC 7207.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

26 USC 7201 note.

#### SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) **IN GENERAL.**—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

### “PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

“Sec. 6867. Presumptions where owner of large amount of cash is not identified.

#### “SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.

26 USC 6867.

“(a) **GENERAL RULE.**—If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash—

“(1) as his, or

“(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

“(b) **RULES FOR ASSESSING.**—In the case of any assessment resulting from the application of subsection (a)—

“(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

“(2) such income shall be treated as taxable at a 50-percent rate, and

“(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

“(c) **EFFECT OF LATER SUBSTITUTION OF TRUE OWNER.**—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

“(d) **DEFINITIONS.**—For purposes of this section—

“(1) **CASH.**—The term ‘cash’ includes any cash equivalent.

“(2) **CASH EQUIVALENT.**—The term ‘cash equivalent’ means—

“(A) foreign currency,

“(B) any bearer obligation, and

“(C) any medium of exchange which—

“(i) is of a type which has been frequently used in illegal activities, and

“(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

“(3) **VALUE OF CASH EQUIVALENT.**—Any cash equivalent shall be taken into account—

“(A) in the case of a bearer obligation, at its face amount, and

“(B) in the case of any other cash equivalent, at its fair market value.”

(b) **CLERICAL AMENDMENT.**—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

“Part III. Special rules with respect to certain cash.”

26 USC 6867  
note.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

## Subtitle D—Administrative Summons

### SEC. 331. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

26 USC 7609.

(a) **PROCEEDING TO QUASH.**—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

“(2) **PROCEEDING TO QUASH.**—

“(A) **IN GENERAL.**—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

“(B) **REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.**—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

“(C) **INTERVENTION; ETC.**—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).”

(b) **RESTRICTION ON EXAMINATION.**—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

“(d) **RESTRICTION ON EXAMINATION OF RECORDS.**—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

“(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

“(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of

such proceeding or with the consent of the person beginning the proceeding to quash.”

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows: 26 USC 7609.

“(h) JURISDICTION OF DISTRICT COURT; ETC.—

“(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

“(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

“(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date.”

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out “14th day” and inserting in lieu thereof “23rd day”, and

(B) by striking out the last sentence and inserting in lieu thereof the following: “Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.”

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

“(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982. 26 USC 7609 note.

#### SEC. 332. DUTY OF THIRD-PARTY RECORDKEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection: *Supra.*

“(i) DUTY OF THIRD-PARTY RECORDKEEPER.—

“(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

“(2) SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.—The Secretary may issue a certificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

“(3) PROTECTION FOR RECORDKEEPER WHO DISCLOSES.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith

reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure.”

26 USC 7609  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

**SEC. 333. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.**

26 USC 7602.

(a) **IN GENERAL.**—Section 7602 (relating to examination of books and witnesses) is amended by striking out “For the purpose” and inserting in lieu thereof “(a) **AUTHORITY TO SUMMON, ETC.**—For the purpose” and by adding at the end thereof the following new subsections:

“(b) **PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.**—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

“(c) **NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.**—

“(1) **LIMITATION OF AUTHORITY.**—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

“(2) **JUSTICE DEPARTMENT REFERRAL IN EFFECT.**—For purposes of this subsection—

“(A) **IN GENERAL.**—A Justice Department referral is in effect with respect to any person if—

“(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

“(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

“(B) **TERMINATION.**—A Justice Department referral shall cease to be in effect with respect to a person when—

“(i) the Attorney General notifies the Secretary, in writing, that—

“(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

“(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

“(III) he will discontinue such a grand jury investigation,

“(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

“(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforce-

ment of the internal revenue laws relating to the request described in subparagraph (A)(ii).

“(3) **TAXABLE YEARS, ETC., TREATED SEPARATELY.**—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

26 USC 7602  
note.

## **Subtitle E—Withholding on Pensions and Other Retirement Income**

### **SEC. 334. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.**

(a) **IN GENERAL.**—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

#### **“SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.**

26 USC 3405.

“(a) **PENSIONS, ANNUITIES, ETC.**—

“(1) **WITHHOLDING AS IF PAYMENT WERE WAGES.**—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

“(2) **ELECTION OF NO WITHHOLDING.**—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

“(3) **WHEN ELECTION TAKES EFFECT.**—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

“(4) **AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.**—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

“(b) **NONPERIODIC DISTRIBUTION.**—

“(1) **WITHHOLDING.**—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

“(2) **AMOUNT OF WITHHOLDING.**—

“(A) **DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.**—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

“(B) **QUALIFIED TOTAL DISTRIBUTIONS.**—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be

determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

“(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant’s death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

“(3) ELECTION OF NO WITHHOLDING.—

“(A) IN GENERAL.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

“(B) SCOPE OF ELECTION.—An election under subparagraph (A)—

“(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

“(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

“(c) LIABILITY FOR WITHHOLDING.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

“(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—

“(A) IN GENERAL.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

“(i) directs the payor to withhold such tax, and

“(ii) provides the payor with such information as the Secretary may require by regulations.

“(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

“(i) section 401(a),

“(ii) section 403(a), or

“(iii) section 301(d) of the Tax Reduction Act of 1975.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) DESIGNATED DISTRIBUTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘designated distribution’ means any distribution or payment from or under—

“(i) an employer deferred compensation plan,

“(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

“(iii) a commercial annuity.

“(B) EXCEPTIONS.—The term ‘designated distribution’ shall not include—



“(i) any amount which is wages without regard to this section, and

“(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

“(2) PERIODIC PAYMENT.—The term ‘periodic payment’ means a designated distribution which is an annuity or similar periodic payment.

“(3) NONPERIODIC DISTRIBUTION.—The term ‘nonperiodic distribution’ means any designated distribution which is not a periodic payment.

“(4) QUALIFIED TOTAL DISTRIBUTION.—

“(A) IN GENERAL.—The term ‘qualified total distribution’ means any distribution which—

“(i) is a designated distribution,

“(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

“(iii) is made under a plan described in section 401(a), or 403(a), and

“(iv) consists of the balance to the credit of the employee under such plan.

“(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

95 Stat. 278.

“(5) EMPLOYER DEFERRED COMPENSATION PLAN.—The term ‘employer deferred compensation plan’ means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

“(6) COMMERCIAL ANNUITY.—The term ‘commercial annuity’ means an annuity, endowment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

“(7) PLAN ADMINISTRATOR.—The term ‘plan administrator’ has the meaning given such term by section 414(g).

“(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

“(9) SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

“(10) TIME AND MANNER OF ELECTION.—

“(A) IN GENERAL.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

“(B) PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—

“(i) PERIODIC PAYMENTS.—The payor of any periodic payment—

“(I) shall transmit to the payee notice of the right to make an election under subsection (a) not

earlier than 6 months before the first of such payments and not later than when making the first of such payments,

“(II) if such a notice is not transmitted under subclause (I) when making such first payment, shall transmit such a notice when making such first payment, and

“(III) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

“(ii) **NONPERIODIC DISTRIBUTIONS.**—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

“(iii) **NOTICE.**—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

“(11) **WITHHOLDING INCLUDES DEDUCTION.**—The terms ‘withholding’, ‘withhold’, and ‘withheld’ include ‘deducting’, ‘deduct’, and ‘deducted’.

“(e) **WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.**—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

“(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

“(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero.”

26 USC 6047.

(b) **FILING OF REPORTS.**—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) **REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.**—

“(1) **IN GENERAL.**—The Secretary shall by forms or regulations require that—

“(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

“(B) any person issuing any contract under which designated distributions (as so defined) may be made, make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

“(2) **FORM, ETC., OF REPORTS.**—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations.”

(c) **PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).**—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

**"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e). 26 USC 6704.**

**"(a) LIABILITY FOR PENALTY.—**Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

**"(b) AMOUNT OF PENALTY.—**

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed \$50,000.

**"(c) EXCEPTIONS.—**

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (c) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph: 26 USC 3402.

"(6) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) EFFECTIVE DATES.—

26 USC 3405 note.

(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

(3) **AMENDMENTS MADE BY SUBSECTION (c).**—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) **PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.**—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

Regulations.

(5) **DELAY IN APPLICATION.**—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(6) **WAIVER OF PENALTY.**—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

#### SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

##### (a) **GENERAL RULE.**—

26 USC 408.

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

“(C) **PARTIAL ROLLOVERS PERMITTED.**—

“(i) **IN GENERAL.**—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

“(ii) **ELIGIBLE PLAN.**—For purposes of clause (i), the term ‘eligible plan’ means any account, annuity, bond, contract, or plan referred to in subparagraph (A).”

26 USC 409.

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

“(D) **PARTIAL ROLLOVERS PERMITTED.**—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C).”

26 USC 408 note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

## Subtitle F—Transactions Outside the United States or Involving Foreign Persons

#### SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

26 USC 7701.

(a) **GENERAL RULE.**—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

“(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

“(A) jurisdiction of courts, or

“(B) enforcement of summons.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act. 26 USC 7701 note.

**SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.**

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

**“Subpart I—Admissibility of Documentation Maintained in Foreign Countries**

“Sec. 982. Admissibility of documentation maintained in foreign countries.

**“SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES.** 26 USC 982.

“(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the ‘examined item’) before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

“(b) REASONABLE CAUSE EXCEPTION.—

“(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

“(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

“(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

“(1) FORMAL DOCUMENT REQUEST.—The term ‘formal document request’ means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth—

“(A) the time and place for the production of the documentation,

“(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

“(C) a description of the documentation being sought, and

“(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

“(2) PROCEEDING TO QUASH.—

“(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

“(B) JURISDICTION.—The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be deemed a final order which may be appealed.

“(C) SUSPENSION OF 90-DAY PERIOD.—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) FOREIGN-BASED DOCUMENTATION.—The term ‘foreign-based documentation’ means any documentation which is outside the United States and which may be relevant or material to the tax treatment of the examined item.

“(2) DOCUMENTATION.—The term ‘documentation’ includes books and records.

“(3) FOREIGN-CONNECTED.—An item shall be treated as foreign-connected if—

“(A) such item is directly or indirectly from a source outside the United States, or

“(B) such item (in whole or in part)—

“(i) purports to arise outside the United States, or

“(ii) is otherwise dependent on transactions occurring outside the United States.

“(4) AUTHORITY TO EXTEND 90-DAY PERIOD.—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

“(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending.”

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

“Subpart I. Admissibility of documentation maintained in foreign countries.”

26 USC 982 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

**SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.**

(a) **IN GENERAL.**—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

26 USC 6038.

“(b) **DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.**—

“(1) **IN GENERAL.**—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of \$1,000 for each annual accounting period with respect to which such failure exists.

“(2) **INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.**—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000.”

(b) **COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.**—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting “and subsection (b)” after “subsection” in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) **COORDINATION WITH SUBSECTION (b).**—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period.”

(c) **TECHNICAL AMENDMENTS.**—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

“(c) **PENALTY OF REDUCING FOREIGN TAX CREDIT.**—”

(2) Paragraph (1) of section 6038(a) is amended by striking out “within the meaning of subsection (d)(1)” and inserting in lieu thereof “within the meaning of subsection (e)(1)”.

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting “of such failure” after “notice”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

26 USC 6038  
note.

**SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.**

(a) **GENERAL RULE.**—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

26 USC 6038A.

**"SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.**

**"(a) REQUIREMENT.**—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person, such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

**"(b) REQUIRED INFORMATION.**—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

**"(c) DEFINITIONS.**—For purposes of this section—

"(1) **CONTROL.**—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent' shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) **CONTROLLED GROUP.**—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(i) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) **FOREIGN PERSON.**—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

**"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION.**—

"(1) **IN GENERAL.**—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of \$1,000 for each taxable year with respect to which such failure occurs.



“(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of \$1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$24,000.

“(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

“(e) CROSS REFERENCE.—

“For provisions relating to criminal penalties for violation of this section, see section 7203.”

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

“Sec. 6038A. Information with respect to certain foreign-owned corporations.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

26 USC 6038A  
note.

**SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.**

(a) GENERAL RULE.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

26 USC 6035.

**“SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.**

“(a) GENERAL RULE.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

“(1) the shareholder information required by subsection (b),

“(2) the income information required by subsection (c), and

“(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

“(b) SHAREHOLDER INFORMATION.—The shareholder information required by this subsection with respect to any taxable year shall be—

“(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

“(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

“(3) the number of shares of each class held by each person, and

“(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term 'share' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

"(c) **INCOME INFORMATION.**—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

"(d) **TIME AND MANNER FOR FURNISHING INFORMATION.**—The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

"(e) **DEFINITION AND SPECIAL RULES.**—

"(1) **10-PERCENT SHAREHOLDER.**—For purposes of this section, the term '10-percent shareholder' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

"(2) **TIME FOR MAKING DETERMINATIONS.**—

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

"(B) **SPECIAL RULE.**—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

"(3) **2 OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SAME FOREIGN CORPORATION.**—If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person."

(b) **APPLICATION OF PENALTY.**—

26 USC 6679.

(1) Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or 6046".

(2) The section heading for section 6679 is amended to read as follows:

**"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046."**

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046."

26 USC 6035  
note.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

**SEC. 341. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.**

(a) **FOREIGN CORPORATIONS.**—Subsection (d) of section 6046 (relating to time for filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: “(or on or before such later day as the Secretary may by forms or regulations prescribe)”.

26 USC 6046.

(b) **FOREIGN TRUSTS.**—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting “(or on or before such later day as the Secretary may by regulations prescribe)” after “the 90th day”.

26 USC 6048.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

26 USC 6046 note.

**SEC. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.**

26 USC 1441 note.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.

**SEC. 343. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 905(c).**

(a) **GENERAL RULE.**—Subsection (c) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence.

26 USC 905.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted.

26 USC 905 note.

**Subtitle G—Modification of Interest Provisions****SEC. 344. INTEREST COMPOUNDED DAILY.**

(a) **IN GENERAL.**—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

**“SEC. 6622. INTEREST COMPOUNDED DAILY.**

26 USC 6622.

“(a) **GENERAL RULE.**—In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

“(b) **EXCEPTION FOR PENALTY FOR FAILURE TO FILE ESTIMATED TAX.**—Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655.”

**(b) CONFORMING AMENDMENTS.**—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

26 USC 6601.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

“Sec. 6622. Interest compounded daily.”

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting “; Compounding of Interest” after “Rate”.

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting “; compounding of interest” after “rate”.

26 USC 6622  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to interest accruing after December 31, 1982.

**SEC. 345. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMI-ANNUALLY.**

26 USC 6621.

(a) **IN GENERAL.**—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

“(b) **ADJUSTMENT OF INTEREST RATE.**—

“(1) **ESTABLISHMENT OF ADJUSTED RATE.**—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

“(A) during the 6-month period ending on September 30 of any calendar year, or

“(B) during the 6-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

“(2) **EFFECTIVE DATE OF ADJUSTMENT.**—Any adjusted rate of interest established under paragraph (1) shall become effective—

“(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

“(B) on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B).”

26 USC 6621  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to adjustments taking effect on January 1, 1983.

**SEC. 346. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.**

26 USC 6611.

(a) **INTEREST WITH RESPECT TO DELINQUENT RETURNS.**—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

“(3) **LATE RETURNS.**—Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.”

(b) **NO INTEREST IF RETURN NOT IN PROCESSIBLE FORM.**—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

“(i) **NO INTEREST UNTIL RETURN IN PROCESSIBLE FORM.**—

“(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

“(2) For purposes of paragraph (1), a return is in a processible form if—

“(A) such return is filed on a permitted form, and

“(B) such return contains—

“(i) the taxpayer’s name, address, and identifying number and the required signature, and

“(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return.”

(c) MODIFICATION OF INTEREST IN THE CASE OF CARRYBACKS.—

(1) OVERPAYMENTS.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for unused deductions) is amended by striking out “the close of the taxable year” and inserting in lieu thereof “the filing date for the taxable year”. 26 USC 6611.

(B) Subparagraph (A) of section 6611(f)(2) is amended by striking out “the close of” each place it appears and inserting in lieu thereof “the filing date for”.

(C) Subsection (f) of section 6611 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR PARAGRAPHS (1) AND (2).—

“(A) FILING DATE.—For purposes of this subsection, the term ‘filing date’ means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

“(B) COORDINATION WITH SUBSECTION (e).—

“(i) IN GENERAL.—FOR PURPOSES OF SUBSECTION (e)—

“(I) any overpayment described in paragraph (1) or (2) shall be treated as an overpayment for the loss year, and

“(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

“(ii) LOSS YEAR.—For purposes of this subparagraph, the term ‘loss year’ means—

“(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises, and

“(II) in the case of a credit carryback, the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year).”

(D) Subsection (g) of section 6611 is amended by striking out “the close of the taxable year” and inserting in lieu thereof “the filing date (as defined in subsection (f)(3)) for the taxable year”.

(2) UNDERPAYMENTS.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out: “the last day of the taxable year” and inserting in lieu thereof “the filing date for the taxable year”. 26 USC 6601.

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out “the last day of the” each place it appears and inserting in lieu thereof “the filing date for”.

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

“(4) FILING DATE.—For purposes of this subsection, the term ‘filing date’ has the meaning given to such term by section 6611(f)(3)(A).”

26 USC 6611  
note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to interest accruing after the 30th day after the date of the enactment of this Act.

## Subtitle H—Taxpayer Safeguard Amendments

### SEC. 347. INCREASE IN CERTAIN EXEMPTIONS FROM LEVY.

(a) GENERAL RULE.—

26 USC 6334.

(1) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) (relating to property exempt from levy) is amended by striking out “\$500” and inserting in lieu thereof “\$1,500”.

(2) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION.—Paragraph (3) of section 6334(a) is amended by striking out “\$250” and inserting in lieu thereof “\$1,000”.

(3) WAGES, SALARY, OR OTHER INCOME.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended—

(A) by striking out “\$50” and inserting in lieu thereof “\$75”, and

(B) by striking out “\$15” and inserting in lieu thereof “\$25”.

26 USC 6334  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made after December 31, 1982.

### SEC. 348. REQUIRED RELEASE OF LIEN.

26 USC 6325.

(a) GENERAL RULE.—So much of subsection (a) of section 6325 (relating to release of lien) as precedes paragraph (1) thereof is amended to read as follows:

“(a) RELEASE OF LIEN.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—”

26 USC 6325  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to liens—

(1) which are filed after December 31, 1982,

(2) which are satisfied after December 31, 1982, or

(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

## SEC. 349. REQUIREMENT OF TIMELY NOTICE OF LEVY.

(a) GENERAL RULE.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

“(d) REQUIREMENT OF NOTICE BEFORE LEVY.—

“(1) IN GENERAL.—Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

“(2) 10-DAY REQUIREMENT.—The notice required under paragraph (1) shall be—

“(A) given in person,

“(B) left at the dwelling or usual place of business of such person, or

“(C) sent by certified or registered mail to such person's last known address,

no less than 10 days before the day of the levy.

“(3) JEOPARDY.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

“(e) CONTINUING LEVY ON SALARY AND WAGES.—

“(1) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

“(2) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in paragraph (1), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies made after December 31, 1982.

## SEC. 349A. EXTENSION OF PERIOD FOR REDEMPTION OF REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 6337(b) (relating to period for redemption of real estate after sale) is amended by striking out “120 days” and inserting in lieu thereof “180 days”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property sold after the date of the enactment of this Act.

## SEC. 350. AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY.

(a) GENERAL RULE.—Subparagraph (C) of section 7426(b)(2) (relating to amount of damages) is amended to read as follows:

“(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

“(i) the amount received by the United States from the sale of such property, or

“(ii) the fair market value of such property immediately before the levy.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to levies made after December 31, 1982.

## Subtitle I—Other Provisions

### SEC. 351. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280E. “SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

“No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.”

21 USC 812.

(b) **CONFORMING AMENDMENT.**—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

“Sec. 280E. Expenditures in connection with the illegal sale of drugs.”

26 USC 280E  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

### SEC. 352. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) such amounts in excess of the amount requested for such purpose in the President's proposed budgets as may be necessary to provide sufficient improved enforcement to increase revenues by \$1 billion in fiscal year 1984 and \$2 billion in fiscal year 1985.

26 USC 6011  
note.

### SEC. 353. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1 of the Internal Revenue Code of 1954.

### SEC. 354. EXEMPTION OF VETERANS' ORGANIZATIONS.

26 USC 501.

(a) **IN GENERAL.**—Paragraph (19) of section 501(c) (relating to exemption of veterans' organizations) is amended—

(1) by striking out “war veterans” the first place it appears and inserting in lieu thereof “past or present members of the Armed Forces of the United States”, and

(2) by amending subparagraph (B) to read as follows:

“(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or



widowers of past or present members of the Armed Forces of the United States or of cadets, and”.

(b) ASSOCIATIONS ORGANIZED BEFORE 1880.—Subsection (c) of section 501 (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

26 USC 501.

“(23) any association organized before 1880 more than 25 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.”

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

26 USC 501 note.

#### SEC. 355. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

##### “VERY HIGH FREQUENCY STATIONS

“SEC. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934.”

47 USC 331.

47 USC 307.

#### SEC. 356. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.— Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following:

26 USC 6103.

“(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

“(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

“(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

“(ii) any investigation which may result in such a proceeding, or

“(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

“(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

“(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

“(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

“(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

“(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

“(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

“(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

“(ii) any investigation which may result in such a proceeding, or

“(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

“(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

“(i) the name and address of the taxpayer with respect to whom the requested return information relates;

“(ii) the taxable period or periods to which such return information relates;

“(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

“(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

“(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer’s identity shall not be treated as taxpayer return information.

“(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

“(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

“(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

“(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer’s identity may also be disclosed under clause (i).

“(B) EMERGENCY CIRCUMSTANCES.—

“(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

“(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

“(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

“(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

“(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

“(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

18 USC app.

“(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

“(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

“(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

“(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

“(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

“(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

“(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

“(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

“(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

“(6) **CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.**—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.”.

**(b) CONFORMING AMENDMENTS.**—

(1) Subsection (p) of section 6103 (relating to procedure and recordkeeping) is amended—

(A) by striking out “(6)(A)(ii)” in paragraph (3)(A) and inserting in lieu thereof “(7)(A)(ii)”,

(B) by striking out “(d)” in paragraph (3)(C)(i) and inserting in lieu thereof “(d), (i)(3)(B)(i)”,

(C) by striking out “such requests” in paragraph (3)(C)(i)(II) and inserting in lieu thereof “such requests or otherwise”,

(D) by striking out “(i)(1), (2), or (5)” each place it appears in paragraph (4) and inserting in lieu thereof “(i)(1), (2), (3), or (5)”,

(E) by striking out “(d)” each place it appears in paragraph (4) and inserting in lieu thereof “(d), (i)(3)(B)(i)”, and

(F) by striking out “subsection (i)(6)(A)(ii)” in paragraph (6)(B)(i) and inserting in lieu thereof “subsection (i)(7)(A)(ii)”.

(2) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out “(d)” and inserting in lieu thereof “(d), (i)(3)(B)(i)”. 26 USC 7213.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the day after the date of the enactment of this Act. 26 USC 6103 note.

**SEC. 357. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.**

(a) **IN GENERAL.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7431 as section 7432 and inserting after section 7430 the following new section: 26 USC 7432.

“**SEC. 7431. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.** 26 USC 7431.

“(a) **IN GENERAL.**—

“(1) **DISCLOSURE BY EMPLOYEE OF UNITED STATES.**—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages

against the United States in a district court of the United States.

“(2) **DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.**—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

“(b) **NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.**—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

“(c) **DAMAGES.**—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

“(1) the greater of—

“(A) \$1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

“(B) the sum of—

“(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

“(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

“(2) the costs of the action.

“(d) **PERIOD FOR BRINGING ACTION.**—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

“(e) **RETURN; RETURN INFORMATION.**—For purposes of this section, the terms ‘return’ and ‘return information’ have the respective meanings given such terms in section 6103(b).”

(b) **CONFORMING AMENDMENTS.**—

(1) Section 7217 (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7431 and inserting in lieu thereof the following:

“Sec. 7431. Civil damages for unauthorized disclosure of returns and return information.

“Sec. 7432. Cross references.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to disclosures made after the date of enactment of this Act.

#### SEC. 358. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE.

(a) **IN GENERAL.**—Paragraph (7) of section 6103(i) (relating to disclosure to Comptroller General), as redesignated by section 396(a), is amended by redesignating subparagraph (B) as subparagraph (C)

Repeal.  
26 USC 7217.

26 USC 7431  
note.

*Ante*, p. 641.

and by inserting after subparagraph (A) the following new subparagraph:

“(B) AUDITS OF OTHER AGENCIES.—

“(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

“(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

“(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

“(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

“(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

“(I) a description of the use of the returns and return information by the Federal agency involved,

“(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

“(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

“(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.”

## (b) CONFORMING AMENDMENTS.—

26 USC 6103.

(1) Subparagraph (A) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out “subparagraph (B)” and inserting in lieu thereof “subparagraph (C)”.

(2) Subparagraph (C) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “subparagraph (A) or (B)”.

26 USC 6103  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

Tax Treatment  
of Partnership  
Items Act of  
1982.

## TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

26 USC 1 note.

## SEC. 401. SHORT TITLE.

This title may be cited as the “Tax Treatment of Partnership Items Act of 1982”.

## SEC. 402. TAX TREATMENT OF PARTNERSHIP ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

### “Subchapter C—Tax Treatment of Partnership Items

“Sec. 6221. Tax treatment determined at partnership level.

“Sec. 6222. Partner’s return must be consistent with partnership return or Secretary notified of inconsistency.

“Sec. 6223. Notice to partners of proceedings.

“Sec. 6224. Participation in administrative proceedings; waivers; agreements.

“Sec. 6225. Assessments made only after partnership level proceedings are completed.

“Sec. 6226. Judicial review of final partnership administrative adjustments.

“Sec. 6227. Administrative adjustment requests.

“Sec. 6228. Judicial review where administrative adjustment request is not allowed in full.

“Sec. 6229. Period of limitations for making assessments.

“Sec. 6230. Additional administrative provisions.

“Sec. 6231. Definitions and special rules.

“Sec. 6232. Extension of subchapter to windfall profit tax.

26 USC 6221.

## “SEC. 6221. TAX TREATMENT DETERMINED AT PARTNERSHIP LEVEL.

“Except as otherwise provided in this subchapter, the tax treatment of any partnership item shall be determined at the partnership level.

26 USC 6222.

“SEC. 6222. PARTNER’S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

“(a) IN GENERAL.—A partner shall, on the partner’s return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

“(b) NOTIFICATION OF INCONSISTENT TREATMENT.—

“(1) IN GENERAL.—In the case of any partnership item, if—

“(A)(i) the partnership has filed a return but the partner’s treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

“(ii) the partnership has not filed a return, and



“(B) the partner files with the Secretary a statement identifying the inconsistency,  
subsection (a) shall not apply to such item.

“(2) PARTNER RECEIVING INCORRECT INFORMATION.—A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

“(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner’s return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

“(B) elects to have this paragraph apply with respect to that item.

“(c) EFFECT OF FAILURE TO NOTIFY.—In any case—

“(1) described in paragraph (1)(A)(i) of subsection (b), and

“(2) in which the partner does not comply with paragraph (1)(B) of subsection (b),

section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

“(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

“For addition to tax in the case of a partner’s intentional or negligent disregard of requirements of this section, see section 6653(a).

**“SEC. 6223. NOTICE TO PARTNERS OF PROCEEDINGS.**

26 USC 6223.

“(a) SECRETARY MUST GIVE PARTNERS NOTICE OF BEGINNING AND COMPLETION OF ADMINISTRATIVE PROCEEDINGS.—The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

“(1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and

“(2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

“(b) SPECIAL RULES FOR PARTNERSHIP WITH MORE THAN 100 PARTNERS.—

“(1) PARTNER WITH LESS THAN 1 PERCENT INTEREST.—Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

“(A) the partnership has more than 100 partners, and

“(B) the partner has a less than 1 percent interest in the profits of the partnership.

“(2) SECRETARY MUST GIVE NOTICE TO NOTICE GROUP.—If a group of partners in the aggregate having a 5 percent or more interest in the profits of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

“(c) INFORMATION BASE FOR SECRETARY’S NOTICES, ETC.—For purposes of this subchapter—

“(1) INFORMATION ON PARTNERSHIP RETURN.—Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

“(2) USE OF ADDITIONAL INFORMATION.—The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

“(3) SPECIAL RULE WITH RESPECT TO INDIRECT PARTNERS.—If any information furnished to the Secretary under paragraph (1) or (2)—

“(A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and

“(B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

“(d) PERIOD FOR MAILING NOTICE.—

“(1) NOTICE OF BEGINNING OF PROCEEDINGS.—The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

“(2) NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

“(e) EFFECT OF SECRETARY’S FAILURE TO PROVIDE NOTICE.—

“(1) APPLICATION OF SUBSECTION.—

“(A) IN GENERAL.—This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

“(B) SPECIAL RULES FOR PARTNERSHIPS WITH MORE THAN 100 PARTNERS.—For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

“(i) except as provided in clause (ii), by mailing notice to the tax matters partner, or

“(ii) in the case of a member of a notice group which qualifies under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

“(2) PROCEEDINGS FINISHED.—In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

“(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

“(B) the decision of a court in an action begun by such a petition has become final, the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

“(3) PROCEEDINGS STILL GOING ON.—In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

“(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

“(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

“(f) ONLY ONE NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

“(g) TAX MATTERS PARTNER MUST KEEP PARTNERS INFORMED OF PROCEEDINGS.—To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

“(h) PASS-THRU PARTNER REQUIRED TO FORWARD NOTICE.—

“(1) IN GENERAL.—If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

“(2) PARTNERSHIP AS PASS-THRU PARTNER.—In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

**“SEC. 6224. PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS; WAIVERS; AGREEMENTS. 26 USC 6224.**

“(a) PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS.—Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

“(b) PARTNER MAY WAIVE RIGHTS.—

“(1) IN GENERAL.—A partner may at any time waive—

“(A) any right such partner has under this subchapter, and

“(B) any restriction under this subchapter on action by the Secretary.

“(2) FORM.—Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

“(c) SETTLEMENT AGREEMENT.—In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

“(1) BINDS ALL PARTIES.—A settlement agreement between the Secretary and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

“(2) OTHER PARTNERS HAVE RIGHT TO ENTER INTO CONSISTENT AGREEMENTS.—If the Secretary enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

“(3) TAX MATTERS PARTNER MAY BIND CERTAIN OTHER PARTNERS.—

“(A) IN GENERAL.—A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

“(i) which is entered into by the tax matters partner, and

“(ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

26 USC 6225.

“SEC. 6225. ASSESSMENTS MADE ONLY AFTER PARTNERSHIP LEVEL PROCEEDINGS ARE COMPLETED.

“(a) RESTRICTION ON ASSESSMENT AND COLLECTION.—Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

“(1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and

“(2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

“(b) **PREMATURE ACTION MAY BE ENJOINED.**—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court.

“(c) **LIMIT WHERE NO PROCEEDING BEGUN.**—If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

“**SEC. 6226. JUDICIAL REVIEW OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENTS.** 26 USC 6226.

“(a) **PETITION BY TAX MATTERS PARTNER.**—Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

“(1) the Tax Court,

“(2) the district court of the United States for the district in which the partnership’s principal place of business is located, or

“(3) the Claims Court.

“(b) **PETITION BY PARTNER OTHER THAN TAX MATTERS PARTNER.**—

“(1) **IN GENERAL.**—If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

“(2) **PRIORITY OF THE TAX COURT ACTION.**—If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

“(3) **PRIORITY OUTSIDE THE TAX COURT.**—If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.

“(4) **DISMISSAL OF OTHER ACTIONS.**—If an action is brought under paragraph (1) in addition to the action which goes forward under paragraph (2) or (3), such action shall be dismissed.

“(5) **TAX MATTERS PARTNER MAY INTERVENE.**—The tax matters partner may intervene in any action brought under this subsection.

“(c) **PARTNERS TREATED AS PARTIES.**—If an action is brought under subsection (a) or (b) with respect to a partnership for any partnership taxable year—

“(1) each person who was a partner in such partnership at any time during such year shall be treated as a party to such action, and

“(2) the court having jurisdiction of such action shall allow each such person to participate in the action.

“(d) PARTNER MUST HAVE INTEREST IN OUTCOME.—

“(1) IN ORDER TO BE PARTY TO ACTION.—Subsection (c) shall not apply to a partner after the day on which—

“(A) the partnership items of such partner for the partnership taxable year became nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, or

“(B) the period within which any tax attributable to such partnership items may be assessed against that partner expired.

“(2) TO FILE PETITION.—No partner may file a readjustment petition under subsection (b) unless such partner would (after the application of paragraph (1) of this subsection) be treated as a party to the proceeding.

“(e) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

“(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partner filing the petition deposits with the Secretary, on or before the day the petition is filed, the amount by which the tax liability of the partner would be increased if the treatment of partnership items on the partner's return were made consistent with the treatment of partnership items on the partnership return, as adjusted by the final partnership administrative adjustment. In the case of a petition filed by a 5-percent group, the requirement of the preceding sentence shall apply to each member of the group. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirements and any shortfall in the amount required to be deposited is timely corrected.

“(2) REFUND ON REQUEST.—If an action brought in a district court of the United States or in the Claims Court is dismissed by reason of the priority of a Tax Court action under paragraph (2) of subsection (b), the Secretary shall, at the request of the partner who made the deposit, refund the amount deposited under paragraph (1).

“(3) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

“(f) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of final partnership administrative adjustment relates and the proper allocation of such items among the partners.

“(g) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this section.

“(h) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed (other than under paragraph (4) of subsection (b)), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership

administrative adjustment is correct, and an appropriate order shall be entered in the records of the court.

**"SEC. 6227. ADMINISTRATIVE ADJUSTMENT REQUESTS.**

26 USC 6227.

**"(a) GENERAL RULE.**—A partner may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

**"(1)** within 3 years after the later of—

**"(A)** the date on which the partnership return for such year is filed, or

**"(B)** the last day for filing the partnership return for such year (determined without regard to extensions), and

**"(2)** before the mailing to the tax matters partner of a notice of final partnership administrative adjustment with respect to such taxable year.

**"(b) REQUESTS BY TAX MATTERS PARTNER ON BEHALF OF PARTNERSHIP.**—

**"(1) SUBSTITUTED RETURN.**—If the tax matters partner—

**"(A)** files a request for an administrative adjustment, and

**"(B)** asks that the treatment shown on the request be substituted for the treatment of partnership items on the partnership return to which the request relates, the Secretary may treat the changes shown on such request as corrections of mathematical or clerical errors appearing on the partnership return.

**"(2) REQUESTS NOT TREATED AS SUBSTITUTED RETURNS.**—

**"(A) IN GENERAL.**—If the tax matters partner files an administrative adjustment request on behalf of the partnership which is not treated as a substituted return under paragraph (1), the Secretary may, with respect to all or any part of the requested adjustments—

**"(i)** without conducting any proceeding, allow or make to all partners the credits or refunds arising from the requested adjustments,

**"(ii)** conduct a partnership proceeding under this subchapter, or

**"(iii)** take no action on the request.

**"(B) EXCEPTIONS.**—Clause (i) of subparagraph (A) shall not apply with respect to a partner after the day on which the partnership items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231.

*Post*, p. 663.

**"(3) REQUEST MUST SHOW EFFECT ON DISTRIBUTIVE SHARES.**—

The tax matters partner shall furnish with any administrative adjustment request on behalf of the partnership revised schedules showing the effect of such request on the distributive shares of the partners and such other information as may be required under regulations.

**"(c) OTHER REQUESTS.**—If any partner files a request for an administrative adjustment (other than a request described in subsection (b)), the Secretary may—

**"(1)** process the request in the same manner as a claim for credit or refund with respect to items which are not partnership items,

**"(2)** assess any additional tax that would result from the requested adjustments,

“(3) mail to the partner, under subparagraph (A) of section 6231(b)(1) (relating to items becoming nonpartnership items), a notice that all partnership items of the partner for the partnership taxable year to which such request relates shall be treated as nonpartnership items, or

“(4) conduct a partnership proceeding.

26 USC 6228.

**“SEC. 6228. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.**

**“(a) REQUEST ON BEHALF OF PARTNERSHIP.—**

“(1) **IN GENERAL.**—If any part of an administrative adjustment request filed by the tax matters partner under subsection (b) of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

“(A) the Tax Court,

“(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

“(C) the Claims Court.

**“(2) PERIOD FOR FILING PETITION.—**

“(A) **IN GENERAL.**—A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

“(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

“(ii) before the date which is 2 years after the date of such request.

“(B) **NO PETITION AFTER NOTICE OF BEGINNING OF ADMINISTRATIVE PROCEEDING.**—No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

**“(C) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.**—If the Secretary—

“(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

“(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (B) shall cease to apply with respect to such request, and the 2-year period referred to in clause (ii) of subparagraph (A) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

“(D) **EXTENSION OF TIME.**—The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

**“(3) COORDINATION WITH ADMINISTRATIVE ADJUSTMENT.—**

“(A) **ADMINISTRATIVE ADJUSTMENT BEFORE FILING OF PETITION.**—No petition may be filed under this subsection after



the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under subsection (b) of section 6227 relates.

“(B) ADMINISTRATIVE ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjustment, except that subsection (e) of section 6226 shall not apply.

“(C) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

“(4) PARTNERS TREATED AS PARTY TO ACTION.—

“(A) IN GENERAL.—If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

“(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

“(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

“(B) PARTNERS MUST HAVE INTEREST IN OUTCOME.—For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

“(5) SCOPE OF JUDICIAL REVIEW.—Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

“(6) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

“(b) OTHER REQUESTS.—

“(1) NOTICE PROVIDING THAT ITEMS BECOME NONPARTNERSHIP ITEMS.—If the Secretary mails to a partner, under subparagraph (A) of section 6231(b)(1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (c) of section 6227 relates shall be treated as nonpartnership items—

“(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

“(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

“(2) OTHER CASES.—

“(A) IN GENERAL.—If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (c) of section 6227 by a partner and paragraph (1) does not apply—

“(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

“(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

“(B) PERIOD FOR FILING PETITION.—

“(i) IN GENERAL.—An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

“(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

“(II) before the date which is 2 years after the date of filing of such request.

“(ii) EXTENSION OF TIME.—The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

“(C) ACTION BARRED AFTER PARTNERSHIP PROCEEDING HAS BEGUN.—No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

“(D) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

“(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-year period referred to in clause (i) (II) of subparagraph (B), and

“(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i) (II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

**"SEC. 6229. PERIOD OF LIMITATIONS FOR MAKING ASSESSMENTS.**

26 USC 6229.

"(a) **GENERAL RULE.**—Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

**"(b) EXTENSION BY AGREEMENT.**—

"(1) **IN GENERAL.**—The period described in subsection (a) (including an extension period under this subsection) may be extended—

"(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

"(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

"(2) **COORDINATION WITH SECTION 6501 (c) (4).**—Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

**"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.**—

"(1) **FALSE RETURN.**—If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

"(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

"(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting '6 years' for '3 years'.

"(2) **SUBSTANTIAL OMISSION OF INCOME.**—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) **NO RETURN.**—In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

"(4) **RETURN FILED BY SECRETARY.**—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

**"(d) SUSPENSION WHEN SECRETARY MAKES ADMINISTRATIVE ADJUSTMENT.**—If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters

partner, the running of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

“(1) for the period during which an action may be brought under section 6226 (and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and

“(2) for 1 year thereafter.

“(e) UNIDENTIFIED PARTNER.—If—

“(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

“(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

“(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year, the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

“(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If, before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items.

26 USC 6230.

“SEC. 6230. ADDITIONAL ADMINISTRATIVE PROVISIONS.

“(a) NORMAL DEFICIENCY PROCEEDINGS DO NOT APPLY TO COMPUTATIONAL ADJUSTMENTS.—Subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

“(b) MATHEMATICAL AND CLERICAL ERRORS APPEARING ON PARTNERSHIP RETURN.—

“(1) IN GENERAL.—Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

“(c) CLAIMS ARISING OUT OF ERRONEOUS COMPUTATIONS, ETC.—

“(1) IN GENERAL.—A partner may file a claim for refund on the grounds that—

“(A) the Secretary erroneously computed any computational adjustment necessary—

“(i) to make the partnership items on the partner’s return consistent with the treatment of the partnership items on the partnership return, or

“(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a), or

“(B) the Secretary failed to allow a credit or to make a refund to the partner in the amount of the overpayment attributable to the application to the partner of a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a) (or erroneously computed the amount of any such credit or refund).

“(2) TIME FOR FILING CLAIM.—

“(A) UNDER PARAGRAPH (1) (A).—Any claim under paragraph (1)(A) shall be filed within 6 months after the day on which the Secretary mails the notice of computational adjustment to the partner.

“(B) UNDER PARAGRAPH (1) (B).—Any claim under paragraph (1)(B) shall be filed within 2 years after whichever of the following days is appropriate:

“(i) the day on which the settlement is entered into,

“(ii) the day on which the period during which an action may be brought under section 6226 with respect to the final partnership administrative adjustment expires, or

“(iii) the day on which the decision of the court becomes final.

“(3) SUIT IF CLAIM NOT ALLOWED.—If any portion of a claim under paragraph (1) is not allowed, the partner may bring suit with respect to such portion within the period specified in subsection (a) of section 6532 (relating to periods of limitations on refund suits).

“(4) NO REVIEW OF SUBSTANTIVE ISSUES.—For purposes of any claim or suit under this subsection, the treatment of partnership items on the partnership return, under the settlement, under the final partnership administrative adjustment, or under the decision of the court (whichever is appropriate) shall be conclusive.

“(d) SPECIAL RULES WITH RESPECT TO CREDITS OR REFUNDS ATTRIBUTABLE TO PARTNERSHIP ITEMS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, no credit or refund of an overpayment attributable to a partnership item (or an affected item) for a partnership taxable year shall be allowed or made to any partner after the expiration of the period of limitation prescribed in section 6229 with respect to such partner for assessment of any tax attributable to such item.

“(2) ADMINISTRATIVE ADJUSTMENT REQUEST.—If a request for an administrative adjustment under section 6227 with respect to a partnership item is timely filed, credit or refund of any overpayment attributable to such partnership item (or an affected item) may be allowed or made at any time before the expiration of the period prescribed in section 6228 for bringing suit with respect to such request.

“(3) CLAIM UNDER SUBSECTION (c).—If a timely claim is filed under subsection (c) for a credit or refund of an overpayment attributable to a partnership item (or affected item), credit or refund of such overpayment may be allowed or made at any time before the expiration of the period specified in section 6532 (relating to periods of limitations on suits) for bringing suit with respect to such claim.

“(4) TIMELY SUIT.—Paragraph (1) shall not apply to any credit or refund of any overpayment attributable to a partnership item (or an item affected by such partnership item) if a partner brings a timely suit with respect to a timely administrative adjustment request under section 6228 or a timely claim under subsection (c) relating to such overpayment.

“(5) OVERPAYMENTS REFUNDED WITHOUT REQUIREMENT THAT PARTNER FILE CLAIM.—In the case of any overpayment by a partner which is attributable to a partnership item (or an affected item) and which may be refunded under this subchapter, to the extent practicable credit or refund of such overpayment shall be allowed or made without any requirement that the partner file a claim therefor.

26 USC 6511.

“(6) SUBCHAPTER B OF CHAPTER 66 NOT APPLICABLE.—Subchapter B of chapter 66 (relating to limitations on credit or refund) shall not apply to any credit or refund of an overpayment attributable to a partnership item (or an affected item).

“(e) TAX MATTERS PARTNER REQUIRED TO FURNISH NAMES OF PARTNERS TO SECRETARY.—If the Secretary mails to any partnership the notice specified in paragraph (1) of section 6223(a) with respect to any partnership taxable year, the tax matters partner shall furnish to the Secretary the name, address, profits interest, and taxpayer identification number of each person who was a partner in such partnership at any time during such taxable year. If the tax matters partner later discovers that the information furnished to the Secretary was incorrect or incomplete, the tax matters partner shall furnish such revised or additional information as may be necessary.

“(f) FAILURE OF TAX MATTERS PARTNER, ETC., TO FULFILL RESPONSIBILITY DOES NOT AFFECT APPLICABILITY OF PROCEEDING.—The failure of the tax matters partner, a pass-thru partner, the representative of a notice group, or any other representative of a partner to provide any notice or perform any act required under this subchapter or under regulations prescribed under this subchapter on behalf of such partner does not affect the applicability of any proceeding or adjustment under this subchapter to such partner.

“(g) DATE DECISION OF COURT BECOMES FINAL.—For purposes of section 6229(d)(1) and section 6230(c)(2)(B), the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

“(h) EXAMINATION AUTHORITY NOT LIMITED.—Nothing in this subchapter shall be construed as limiting the authority granted to the Secretary under section 7602.

*Ante*, p. 622.

“(i) TIME AND MANNER OF FILING STATEMENTS, MAKING ELECTIONS, ETC.—Except as otherwise provided in this subchapter, each—

- “(1) statement,
- “(2) election,
- “(3) request, and
- “(4) furnishing of information,

shall be filed or made at such time, in such manner, and at such place as may be prescribed in regulations.

“(j) **PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.**—For purposes of sections 6226 and 6228, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

“(k) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter. Any reference in this subchapter to regulations is a reference to regulations prescribed by the Secretary.

“(l) **COURT RULES.**—Any action brought under any provision of this subchapter shall be conducted in accordance with such rules of practice and procedure as may be prescribed by the Court in which the action is brought.

“**SEC. 6231. DEFINITIONS AND SPECIAL RULES.**

26 USC 6231.

“(a) **DEFINITIONS.**—For purposes of this subchapter—

“(1) **PARTNERSHIP.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘partnership’ means any partnership required to file a return under section 6031(a).

“(B) **EXCEPTION FOR SMALL PARTNERSHIPS.**—

“(i) **IN GENERAL.**—The term ‘partnership’ shall not include any partnership if—

“(I) such partnership has 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, and

“(II) each partner’s share of each partnership item is the same as his share of every other item. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.

“(ii) **ELECTION TO HAVE SUBCHAPTER APPLY.**—A partnership (within the meaning of subparagraph (A)) may for any taxable year elect to have clause (i) not apply. Such election shall apply for such taxable year and all subsequent taxable years unless revoked with the consent of the Secretary.

“(2) **PARTNER.**—The term ‘partner’ means—

“(A) a partner in the partnership, and

“(B) any other person whose income tax liability under subtitle A is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

“(3) **PARTNERSHIP ITEM.**—The term ‘partnership item’ means, with respect to a partnership, any item required to be taken into account for the partnership’s taxable year under any provision of subtitle A to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

“(4) **NONPARTNERSHIP ITEM.**—The term ‘nonpartnership item’ means an item which is (or is treated as) not a partnership item.

“(5) **AFFECTED ITEM.**—The term ‘affected item’ means any item to the extent such item is affected by a partnership item.

“(6) **COMPUTATIONAL ADJUSTMENT.**—The term ‘computational adjustment’ means the change in the tax liability of a partner which properly reflects the treatment under this subchapter of

a partnership item. All adjustments required to apply the results of a proceeding with respect to a partnership under this subchapter to an indirect partner shall be treated as computational adjustments.

“(7) **TAX MATTERS PARTNER.**—The tax matters partner of any partnership is—

“(A) the general partner designated as the tax matters partner as provided in regulations, or

“(B) if there is no general partner who has been so designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (or, where there is more than 1 such partner, the 1 of such partners whose name would appear first in an alphabetical listing).

If there is no general partner designated under subparagraph (A) and the Secretary determines that it is impracticable to apply subparagraph (B), the partner selected by the Secretary shall be treated as the tax matters partner.

“(8) **NOTICE PARTNER.**—The term ‘notice partner’ means a partner who, at the time in question, would be entitled to notice under subsection (a) of section 6223 (determined without regard to subsections (b)(2) and (e)(1)(B) thereof).

“(9) **PASS-THRU PARTNER.**—The term ‘pass-thru partner’ means a partnership, estate, trust, electing small business corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which proceedings under this subchapter are conducted.

“(10) **INDIRECT PARTNER.**—The term ‘indirect partner’ means a person holding an interest in a partnership through 1 or more pass-thru partners.

“(11) **5-PERCENT GROUP.**—A 5-percent group is a group of partners who for the partnership taxable year involved had profits interests which aggregated 5 percent or more.

“(12) **HUSBAND AND WIFE.**—Except to the extent otherwise provided in regulations, a husband and wife who have a joint interest in a partnership shall be treated as 1 person.

“(b) **ITEMS CEASE TO BE PARTNERSHIP ITEMS IN CERTAIN CASES.**—

“(1) **IN GENERAL.**—For purposes of this subchapter, the partnership items of a partner for a partnership taxable year shall become nonpartnership items as of the date—

“(A) the Secretary mails to such partner a notice that such items shall be treated as nonpartnership items,

“(B) the partner files suit under section 6228(b) after the Secretary fails to allow an administrative adjustment request with respect to any of such items,

“(C) the Secretary enters into a settlement agreement with the partner with respect to such items, or

“(D) such change occurs under subsection (e) of section 6223 (relating to effect of Secretary’s failure to provide notice) or under subsection (c) of this section.

“(2) **CIRCUMSTANCES IN WHICH NOTICE IS PERMITTED.**—The Secretary may mail the notice referred to in subparagraph (A) of paragraph (1) to a partner with respect to partnership items for a partnership taxable year only if—

“(A) such partner—



“(i) has complied with subparagraph (B) of section 6222(b)(1) (relating to notification of inconsistent treatment) with respect to one or more of such items, and

“(ii) has not, as of the date on which the Secretary mails the notice, filed a request for administrative adjustments which would make the partner's treatment of the item or items with respect to which the partner complied with subparagraph (B) of section 6222(b)(1) consistent with the treatment of such item or items on the partnership return, or

“(B)(i) such partner has filed a request under section 6227(b) for administrative adjustment of one or more of such items, and

“(ii) the adjustments requested would not make such partner's treatment of such items consistent with the treatment of such items on the partnership return.

“(3) NOTICE MUST BE MAILED BEFORE BEGINNING OF PARTNERSHIP PROCEEDING.—Any notice to a partner under subparagraph (A) of paragraph (1) with respect to partnership items for a partnership taxable year shall be mailed before the day on which the Secretary mails to the tax matters partner a notice of the beginning of an administrative proceeding at the partnership level with respect to such items.

“(c) REGULATIONS WITH RESPECT TO CERTAIN SPECIAL ENFORCEMENT AREAS.—

“(1) APPLICABILITY OF SUBSECTION.—This subsection applies in the case of—

“(A) assessments under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes),

“(B) criminal investigations,

“(C) indirect methods of proof of income,

“(D) foreign partnerships, and

“(E) other areas that the Secretary determines by regulation to present special enforcement considerations.

“(2) ITEMS MAY BE TREATED AS NONPARTNERSHIP ITEMS.—To the extent that the Secretary determines and provides by regulations that to treat items as partnership items will interfere with the effective and efficient enforcement of this title in any case described in paragraph (1), such items shall be treated as nonpartnership items for purposes of this subchapter.

“(3) SPECIAL RULES.—The Secretary may prescribe by regulation such special rules as the Secretary determines to be necessary to achieve the purposes of this subchapter in any case described in paragraph (1).

“(d) TIME FOR DETERMINING PARTNER'S PROFITS INTEREST IN PARTNERSHIP.—

“(1) IN GENERAL.—For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and paragraph (11) of subsection (a) (relating to 5-percent group), the interest of a partner in the profits of a partnership for a partnership taxable year shall be determined—

“(A) in the case of a partner whose entire interest in the partnership is liquidated, sold, or exchanged during such partnership taxable year, as of the moment immediately before such liquidation, sale, or exchange, or

Regulations.

“(B) in the case of any other partner, as of the close of the partnership taxable year.

“(2) INDIRECT PARTNERS.—The Secretary shall prescribe regulations consistent with the principles of paragraph (1) to be applied in the case of indirect partners.

“(e) EFFECT OF JUDICIAL DECISIONS IN CERTAIN PROCEEDINGS.—

“(1) DETERMINATIONS AT PARTNER LEVEL.—No judicial determination with respect to the income tax liability of any partner not conducted under this subchapter shall be a bar to any adjustment in such partner’s income tax liability resulting from—

“(A) a proceeding with respect to partnership items under this subchapter, or

“(B) a proceeding with respect to items which become nonpartnership items—

“(i) by reason of 1 or more of the events described in subsection (b), and

“(ii) after the appropriate time for including such items in any other proceeding with respect to nonpartnership items.

“(2) PROCEEDINGS UNDER SECTION 6228 (a).—No judicial determination in any proceeding under subsection (a) of section 6228 with respect to any partnership item shall be a bar to any adjustment in any other partnership item.

“(f) SPECIAL RULE FOR LOSSES AND CREDITS OF FOREIGN PARTNERSHIPS.—Except to the extent otherwise provided in regulations, in the case of any partnership the tax matters partner of which resides outside the United States or the books of which are maintained outside the United States, no loss or credit shall be allowable to any partner unless section 6031 is complied with for the partnership’s taxable year in which such deduction or credit arose at such time as the Secretary prescribes by regulations.

26 USC 6232.

“SEC. 6232. EXTENSION OF SUBCHAPTER TO WINDFALL PROFIT TAX.

“(a) INCLUSION AS PARTNERSHIP ITEM.—For purposes of applying this subchapter to the tax imposed by chapter 45 (relating to the windfall profit tax), the term ‘partnership item’ means any item relating to the determination of the tax imposed by chapter 45 to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

“(b) SEPARATE APPLICATION.—This subchapter shall be applied separately with respect to—

“(1) partnership items described in subsection (a), and

“(2) partnership items described in section 6231(a)(3).

“(c) PARTNERSHIP AUTHORIZED TO ACT FOR PARTNERS.—

26 USC 4986 et seq.

“(1) IN GENERAL.—For purposes of chapter 45 and so much of this subtitle as relates to chapter 45, to the extent and in the manner provided in regulations, a partnership shall be treated as authorized to act for each partner with respect to the determination, assessment, or collection of the tax imposed by chapter 45.

“(2) PARTNERS ENTITLED TO 5 PERCENT OR MORE OF INCOME MAY ELECT OUT OF SUBSECTION.—Paragraph (1) shall not apply to any partnership if partners entitled to 5 percent or more of the income of the partnership elect (at the time and in the manner

provided in regulations) not to have paragraph (1) apply to the partnership.

“(3) PARTNER’S RIGHTS PRESERVED.—Nothing in paragraph (1) shall be construed to take away from any person any right granted to such person by the foregoing sections of this subchapter.”

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following:

“SUBCHAPTER C. Tax treatment of partnership items.”

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 (relating to income and credits of partner) is amended by inserting at the end thereof the following new subsection: 26 USC 702.

“(d) CROSS REFERENCE.—

“For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following).”

(2) Subsection (h) of section 6213 (relating to certain cross references with respect to restrictions on assessment) is amended by inserting at the end thereof the following new paragraph: 26 USC 6213.

“(4) For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a).”

(3) Section 6216 (relating to certain cross references with respect to assessments) is amended by inserting at the end thereof the following new paragraph: 26 USC 6216.

“(4) For procedures relating to partnership items, see subchapter C.”

(4) Section 6422 (relating to certain cross references with respect to credits and refunds) is amended by inserting at the end thereof the following new paragraph: 26 USC 6422.

“(15) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.”

(5) Subsection (o) of section 6501 (relating to limitations on assessment and collection) is amended to read as follows: 26 USC 6501.

“(o) SPECIAL RULES FOR PARTNERSHIP ITEMS.—For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.”

(6) Section 6504 (relating to certain cross references with respect to limitations on assessments) is amended by inserting at the end thereof the following new paragraph: 26 USC 6504.

“(12) Assessments of tax attributable to partnership items, see section 6229.”

(7) Subsection (g) of section 6511 (relating to limitations on credit or refund) is amended to read as follows: 26 USC 6511.

“(g) SPECIAL RULE FOR CLAIMS WITH RESPECT TO PARTNERSHIP ITEMS.—In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections 26 USC 6504. Ante, pp. 663, 655.

- Ante*, p. 660. (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter.”
- 26 USC 6512. (8) Subsection (a) of section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof “, and”, and by inserting at the end thereof the following new paragraph:  
“(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63.”
- (9) Paragraph (2) of section 6512(b) (relating to limit on amount of credit or refund) is amended by striking out “(c), (d), or (g)” each place it appears and inserting in lieu thereof “(c), or (d)”.
- 26 USC 6515. (10) Section 6515 (relating to certain cross references with respect to limitations on credit or refund) is amended by inserting at the end thereof the following new paragraph:  
“(7) Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.”
- 26 USC 7422. (11) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (h) thereof as subsection (i) and by inserting after subsection (g) the following new subsection:  
“(h) SPECIAL RULE FOR ACTIONS WITH RESPECT TO PARTNERSHIP ITEMS.—No action may be brought for a refund attributable to partnership items (as defined in section 6131(a)(3)) except as provided in section 6228(b) or section 6230(c).”
- Ante*, p. 663.  
*Ante*, p. 656.  
26 USC 7451. (12) Section 7451 (relating to fee for filing petition) is amended by adding “or for judicial review under section 6226 or section 6228(a)” at the end thereof.
- 26 USC 7456. (13) Subsection (c) of section 7456 (relating to Tax Court Commissioners) is amended by inserting “6226, 6228(a),” before “7428”.
- 26 USC 7459. (14) Subsection (c) of section 7459 (relating to date of decision) is amended by inserting “or in the case of an action brought under section 6226 or section 6228(a)” after “or under section 7428”.
- 26 USC 7482. (15) Paragraph (1) of section 7482(b) (relating to venue for review of Tax Court decisions) is amended—  
(A) by striking out “or” at the end of subparagraph (D),  
(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof “, or”,  
(C) by adding after subparagraph (E) the following new subparagraph:  
“(F) in the case of a petition under section 6226 or 6228(a), the principal place of business of the partnership,” and  
(D) by inserting “, or the petition under section 6226 or 6228(a),” after “or 7477”.
- 26 USC 7485. (16) Section 7485 (relating to bond to stay assessment and collection) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:  
“(b) BOND IN CASE OF APPEAL OF DECISION UNDER SECTION 6226 OR SECTION 6228(a).—The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226 or 6228(a) and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is

filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate of such deficiencies."

(17) Subsection (e) of section 1346 of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by striking out "section 7426 or section" and inserting in lieu thereof "section 6226, 6228(a), 7426, or".

(18)(A) Chapter 91 of title 28, United States Code (relating to Claims Court), is amended by adding at the end thereof the following new section:

**"§ 1508. Jurisdiction for certain partnership proceedings**

28 USC 1508.

"The Claims Court shall have jurisdiction to hear and to render judgment upon any petition under section 6226 or 6228(a) of the Internal Revenue Code of 1954."

*Ante*, pp. 653, 656.

(B) The section analysis of chapter 91 of title 28, United States Code (relating to Claims Court) is amended by adding at the end thereof the following new item:

"1508. Jurisdiction for certain partnership proceedings."

**SEC. 403. REQUIREMENT THAT STATEMENT BE FURNISHED TO PARTNER.**

(a) **GENERAL RULE.**—Section 6031 (relating to return of partnership income) is amended by adding at the end thereof the following new subsection:

26 USC 6031.

"(b) **COPIES TO PARTNERS.**—Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a partner at any time during such taxable year a copy of such information shown on such return as may be required by regulations."

(b) **CONFORMING AMENDMENT.**—Section 6031 is amended by striking out "Every partnership" and inserting in lieu thereof the following:

"(a) **GENERAL RULE.**—Every partnership".

**SEC. 404. RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS.**

26 USC 6031 note.

Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1954 shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year.

26 USC 1.

**SEC. 405. RETURN REQUIREMENT FOR UNITED STATES PERSONS HAVING INTEREST IN FOREIGN PARTNERSHIPS.**

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6046 the following new section:

26 USC 6046A. **“SEC. 6046A. RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS.**

**“(a) REQUIREMENT OF RETURN.**—Any United States person, except to the extent otherwise provided by regulations—

**“(1) who acquires any interest in a foreign partnership,**

**“(2) who disposes of any portion of his interest in a foreign partnership, or**

**“(3) whose proportional interest in a foreign partnership changes substantially,**  
shall file a return.

**“(b) FORM AND CONTENTS OF RETURN.**—Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

**“(c) TIME FOR FILING RETURN.**—Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

**“(d) CROSS REFERENCE.**—

**“For provisions relating to penalties for violations of this section, see sections 6679 and 7203.”**

**(b) PENALTY.**—

26 USC 6679.

Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisitions of their stock) is amended by striking out “section 6046” and inserting in lieu thereof “section 6046 or 6046A”.

**(c) CLERICAL AMENDMENTS.**—

**(1)** The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6046 the following new item:

**“Sec. 6046A. Returns as to interests in foreign partnerships.”**

**(2)** The section heading of section 6679 is amended to read as follows:

**“SEC. 6679. FAILURE TO FILE RETURNS WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.”**

**(3)** The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

**“Sec. 6679. Failure to file returns with respect to foreign corporations or foreign partnerships.”**

26 USC 6231  
note.

**SEC. 406. SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS.**

Subchapter C of chapter 63 of the Internal Revenue Code of 1954 (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.

26 USC 6221  
note.

**SEC. 407. EFFECTIVE DATES.**

**(a)(1)** Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) Section 6232 of the Internal Revenue Code of 1954 shall apply to periods after December 31, 1982.

(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application.

(b) The amendments made by section 405 shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act.

26 USC 6046A  
note.

## TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

Airport and  
Airway  
Improvement  
Act of 1982.

### SECTION 501. SHORT TITLE.

This title may be cited as the “Airport and Airway Improvement Act of 1982”.

49 USC 2201  
note.

### SEC. 502. DECLARATION OF POLICY.

49 USC 2201.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

49 USC 1302,  
1303.

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(8) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(9) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety.

(b) **TRANSPORTATION PLANNING.**—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

49 USC 2202.

**SEC. 503. DEFINITIONS.**

(a) **IN GENERAL.**—As used in this title—

(1) “Airport” means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) “Airport development” means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;



- (iii) snow removal equipment;
  - (iv) aviation-related weather reporting equipment; or
  - (v) equipment to measure runway surface friction;
- and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(11) "Primary airport" means a commercial service airport which is determined by the Secretary to have .01 percent or

more of the total number of passengers enplaned annually at all commercial service airports.

(12) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(13) "Project costs" means any costs involved in accomplishing a project.

(14) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(15) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(16) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(17) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

(18) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(19) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(20) "Secretary" means the Secretary of Transportation.

(21) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(22) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(23) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

(24) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title.

## SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

49 USC 2203.

(a) **FORMULATION OF AIRPORT PLAN.**—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(b) **FORMULATION OF AIRWAY PLAN.**—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

Report to  
Congress.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this title, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

49 USC 2204.  
Grants.

#### SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be \$450,000,000 for fiscal year 1982; \$1,050,000,000 for the fiscal years ending before October 1, 1983; \$1,843,500,000 for the fiscal years ending before October 1, 1984; \$2,755,500,000 for the fiscal years ending before October 1, 1985; \$3,772,500,000 for the fiscal years ending before October 1, 1986; and \$4,789,700,000 for the fiscal years ending before October 1, 1987.

49 USC 1711,  
1713.  
49 USC 2104.

(b) **OBLIGATIONAL AUTHORITY.**—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) **NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.**—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

49 USC 2104.

#### SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

49 USC 2205.

(a) **AIRWAY FACILITIES AND EQUIPMENT.**—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed \$261,000,000 for fiscal year 1982; \$986,000,000 for the fiscal years ending before October 1, 1983; \$2,379,000,000 for the fiscal years ending before October 1, 1984; \$3,786,000,000 for the fiscal years ending before October 1, 1985; \$5,163,000,000 for the fiscal years ending before October 1, 1986; and \$6,327,000,000 for the fiscal years ending before October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

Appropriation authorization.

(2) The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection.

49 USC 1348.

Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

Appropriation  
authorization.

(b) **RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.**—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312, there is authorized to be appropriated from the Trust Fund \$72,000,000 for fiscal year 1982; \$134,000,000 for fiscal year 1983 (of which not more than \$16,800,000 is authorized to be appropriated for facilities, engineering and development); \$286,000,000 for fiscal year 1984 (of which not more than \$24,700,000 is authorized to be appropriated for facilities, engineering and development); \$269,000,000 for fiscal year 1985 (of which not more than \$23,100,000 is authorized to be appropriated for facilities, engineering and development); \$215,000,000 for fiscal year 1986 (of which not more than \$22,700,000 is authorized to be appropriated for facilities, engineering and development); and \$193,000,000 for fiscal year 1987 (of which not more than \$22,000,000 is authorized to be appropriated for facilities, engineering and development). Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) **OTHER EXPENSES.**—(1) The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed \$800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 2.44 in the case of fiscal year 1983; 1.57 in the case of fiscal year 1984; 1.39 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) **WEATHER SERVICES.**—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to \$26,700,000 for fiscal year 1983; \$28,569,000 for fiscal year 1984;

\$30,569,000 for fiscal year 1985; \$32,709,000 for fiscal year 1986; and \$34,998,000 for fiscal year 1987.

(e) **PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.**—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

49 USC 1301  
note.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), and (d) and the third sentence of section (c) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) **TRANSMITTAL OF BUDGET ESTIMATES.**—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

#### SEC. 507. APPORTIONMENT OF FUNDS.

49 USC 2206.

(a) **APPORTIONMENT.**—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

##### (1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) \$6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) \$4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) \$2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) \$0.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary shall not apportion less than \$200,000 nor more than \$12,500,000 under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(2) APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before October 1, 1987, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this



paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(3) **DISCRETIONARY FUND.**—Any amounts not apportioned under paragraphs (1), (2), and (4) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(4) Notwithstanding any other provision of this subsection, for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in paragraph (3) of this subsection.

*Post*, p. 695.

(b) **PASSENGERS ENPLANED.**—For purposes of determining apportionments for any fiscal year under paragraph (1) of subsection (a) of this section, the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

**SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.**

49 USC 2207.

(a) **DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.**—Each amount apportioned under paragraph (1), (2), or (4) of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(a)(3) of this title.

(b) **TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.**—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes

for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) **STATES.**—Funds apportioned to a State under section 507(a)(2) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(2) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) **GENERAL LIMITATIONS.**—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 8 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year (A) for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title.

(3) Not less than 5.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under paragraph (4) of section 507(a) shall be counted as part of the 5.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than one percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

#### **SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.**

(a) **SUBMISSION.**—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such

49 USC 1711,  
1713.

49 USC 2104.

*Post*, p. 695.

49 USC 2208.

information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507(a), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(b) APPROVAL.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has

been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to

be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) **STATE STANDARDS.**—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) **ACCEPTANCE OF CERTIFICATION.**—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

49 USC 1653.  
42 USC 2000d.

(e) **REQUIREMENT OF NOTICE.**—Each sponsor to which funds are apportioned under section 507(a)(1) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

#### SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

49 USC 2209.

(a) **GENERAL PROVISION.**—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) **PROJECTS AT CERTAIN PRIMARY AIRPORTS.**—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) **PROJECTS IN PUBLIC LAND STATES.**—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the

total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970.

*Post*, p. 695.

49 USC 2210.

**SEC. 511. PROJECT SPONSORSHIP.**

(a) **SPONSORSHIP.**—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards

and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

49 USC 1101  
note, *post*, p. 695.

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: *Provided, however*, That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(13) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost of acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe.

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

(c) CONSULTATION.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

49 USC 1101  
note, *post*, p. 695.

49 USC 2211.

#### SEC. 512. GRANT AGREEMENTS.

(a) OFFER AND ACCEPTANCE.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) MAXIMUM OBLIGATION OF THE UNITED STATES.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as



the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

(c) Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

*Post*, p. 695.

#### SEC. 513. PROJECT COSTS.

49 USC 2212.

(a) **ALLOWABLE PROJECT COSTS.**—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated

in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) **TERMINAL DEVELOPMENT.**—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) Not more than the greater of (A) \$200,000, or (B) 60 percent of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than \$200,000 of the sums to be distributed at the discretion of the Secretary under section 507(a)(3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Not more than \$25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

(4) Sums apportioned under section 507(a) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

49 USC 1432.

*Post*, p. 695.

*Post*, p. 695.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) **COSTS NOT ALLOWED.**—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

#### SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

49 USC 2213.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

#### SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

49 USC 2214.

(a) **REGULATIONS.**—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) **MINIMUM RATES OF WAGES.**—All contracts in excess of \$2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) **VETERANS PREFERENCE.**—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

49 USC 2215.

**SEC. 516. USE OF GOVERNMENT-OWNED LANDS.**

(a) **REQUESTS FOR USE.**—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) **MAKING OF CONVEYANCES.**—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used

in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) **EXEMPTION OF CERTAIN LANDS.**—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

**SEC. 517. FALSE STATEMENTS.**

49 USC 2216.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed \$10,000, or by both.

**SEC. 518. ACCESS TO RECORDS.**

49 USC 2217.

(a) **RECORDKEEPING REQUIREMENTS.**—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

Review.

(b) **AUDIT AND EXAMINATION.**—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) **AUDIT REPORTS.**—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title

Report to  
Congress.

relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) **WITHHOLDING INFORMATION.**—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

49 USC 2218.

**SEC. 519. GENERAL POWERS.**

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

49 USC 2219.

**SEC. 520. CIVIL RIGHTS.**

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

42 USC 2000d.

49 USC 2220.

**SEC. 521. REPORTS TO CONGRESS.**

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

49 USC 2221.

**SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.**

(a) **SUBMISSION TO CONGRESS.**—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) **CONSIDERATIONS.**—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) **CONSULTATION.**—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

**SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.**

(a) **REPEAL.**—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701-1730) are repealed on the date of enactment of this title.

(b) **EFFECTIVE DATE.**—This title and the amendments made by this title shall take effect on the date of enactment of this title.

49 USC 2201  
note.

(c) **SAVING PROVISIONS.**—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

49 USC 2201  
note.

*Supra*, 49 USC  
1101 note.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

49 USC 1715.

49 USC 1714.

(d) **SEPARABILITY.**—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby.

49 USC 2201  
note.

**SEC. 524. MISCELLANEOUS AMENDMENTS.**

(a)(1) Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based

operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.”.

*Ante*, p. 671.

(2) Section 313(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(c)) is amended by inserting “the Airport and Airway Improvement Act of 1982,” after “this Act,” the first place it appears.

(3) Section 1109(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(e)) is amended by striking out “Airport and Airway Development Act of 1970” and inserting in lieu thereof “Airport and Airway Improvement Act of 1982”.

(b) The Aviation Safety and Noise Abatement Act of 1979 is amended as follows:

49 USC 2101.

(1) Section 101(1) is amended to read as follows:

“(1) the term ‘airport’ means any public-use airport (as defined by section 503(17) of the Airport and Airway Improvement Act of 1982);”.

(2) Section 101(2) is amended to read as follows:

“(2) the term ‘airport operator’ means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and”.

49 USC 2103.

49 USC 1711,  
1713.

(3) Section 103(b) is amended to read as follows:

“(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

“(2) For purposes of this Act, the term ‘airport noise compatibility planning’ means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act.”.

49 USC 2104.

(4) Section 104(c)(1) is amended by striking out “subsection (e) of this section” in the first sentence and inserting in lieu thereof “section 505 of the Airport and Airway Improvement Act of 1982”. The last sentence of section 104(c)(1) is amended to read as follows: “All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.”.

49 USC 2108.

(5) Section 108 is amended by striking out “(1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2)” and inserting in lieu thereof “airport noise compatibility planning and”.

(c) Section 13(g)(1) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)(1)) is amended by striking out “Airport and Airway



Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(d) Section 24 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) There is authorized to be appropriated out of the Airport and Airway Trust Fund for amounts expended before the date specified in paragraph (2) of this subsection not to exceed \$15,000,000. No such amounts shall be appropriated prior to September 30, 1981.

"(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979."

(e) Section 31 of the Airport and Airway Development Act of 1970 is amended by striking out "this title" and inserting in lieu thereof "the Airport and Airway Improvement Act of 1982", by inserting "under such Act" after "airport development project", and by inserting "(as defined by section 11(8) of the Airport and Airway Development Act of 1970, as in effect on the date of enactment of this section)" after "general aviation airport".

(f) The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof: "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

*Ante*, p. 671.

Appropriation authorization.

49 USC 1301 note.

49 USC 1731.

*Ante*, p. 671.

49 USC 1711.

#### SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

(a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)) is amended to read as follows:

##### "POWER TO ISSUE

"SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats."

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c)) is amended by striking out "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carriers airports" and inserting in lieu thereof "airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1)".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

49 USC 2222.

**SEC. 526. CONTRACTING AUTHORITY.**

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility.

49 USC 2223.

**SEC. 527. STUDY OF AIRPORT ACCESS.**

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

- (1) the Department of Transportation;
- (2) the Department of Justice;
- (3) States;
- (4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;
- (5) trunk air carriers;
- (6) regional air carriers (other than commuter air carriers);
- (7) charter air carriers;
- (8) commuter air carriers;
- (9) all-cargo air carriers;
- (10) general aviation;
- (11) financial institutions with an interest in the aviation industry; and
- (12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section.

Report to  
congressional  
committees.

## SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

49 USC 2224.

(a) Beginning on the date of enactment of this title, the Secretary shall not close or operate on a part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this title and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than sixty existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such service shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

## SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

49 USC 2225.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than \$150,000 nor less than \$130,000 for each fiscal year beginning after September 30, 1981, and ending before October 1, 1987.

## SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

49 USC 1115  
note.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

49 USC 1115  
note.

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(b) BROWNWOOD, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) GRAND JUNCTION, COLORADO.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained

in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

#### SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

49 USC 1371.

#### SEC. 532. STATE TAXATION.

(a) Section 1113(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1513(b)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in subsection (d) of this section, nothing".

(b) Section 1113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(2) In this subsection—

"(A) 'assessment' means valuation for a property tax levied by a taxing district;

“(B) ‘assessment jurisdiction’ means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

“(C) ‘air carrier transportation property’ means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

“(D) ‘commercial and industrial property’ means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

“(E) ‘State’ shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

“(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.”.

## TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

### Subtitle A—Extension of Benefits

Federal  
Supplemental  
Compensation  
Act of 1982.

#### SHORT TITLE

26 USC 3304  
note.

SEC. 601. This subtitle may be cited as the “Federal Supplemental Compensation Act of 1982”.

#### FEDERAL-STATE AGREEMENTS

26 USC 3304  
note.

SEC. 602. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the “Secretary”) under this subtitle. Any State which is a party to an agreement under this subtitle may, upon providing thirty days’ written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual’s period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which

begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

95 Stat. 875.  
26 USC 3304  
note.

(e)(1) Any agreement under this subtitle with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

26 USC 3304  
note.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent;

except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

26 USC 3304  
note.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning after March 31, 1983.

#### PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

26 USC 3304  
note.

SEC. 603. (a) There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

5 USC 8501 *et*  
*seq.*

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this subtitle or chapter 85 of title 5 of the United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this subtitle in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

#### FINANCING PROVISIONS

26 USC 3304  
note.  
42 USC 1105.

SEC. 604. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of



payments to States having agreements entered into under this subtitle.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

42 USC 1105.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this subtitle. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this subtitle.

42 USC. 501.

#### DEFINITIONS

SEC. 605. For purposes of this subtitle—

26 USC 3304 note.

(1) the terms “compensation”, “regular compensation”, “extended compensation”, “base period”, “benefit year”, “State”, “State agency”, “State law”, and “week” shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

26 USC 3304 note.

(2) the term “period of eligibility” means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

#### FRAUD AND OVERPAYMENTS

SEC. 606. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this subtitle to which he was not entitled, such individual—

26 USC 3304 note.

(A) shall be ineligible for further Federal supplemental compensation under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this subtitle to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental

compensation to the State agency, except that the State agency may waive such repayment if it determines that—

- (i) the payment of such Federal Supplemental compensation was without fault on the part of any such individual, and
- (ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

## Subtitle B—Taxation of Unemployment Compensation

### SEC. 611. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) LOWERING BASE AMOUNT FROM \$20,000 TO \$12,000 (From \$25,000 TO \$18,000 IN CASE OF JOINT RETURN).—Subsection (b) of section 85 of the Internal Revenue Code of 1954 (defining base amount) is amended—

- (1) by striking out “\$20,000” and inserting in lieu thereof “\$12,000”, and
- (2) by striking out “\$25,000” and inserting in lieu thereof “\$18,000”.

(b) EFFECTIVE DATES.—

(1) COMPENSATION PAID AFTER 1981.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1981, in taxable years ending after such date.

(2) NO ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX ATTRIBUTABLE TO APPLICATION OF AMENDMENTS TO COMPENSATION PAID IN 1982.—No addition to tax shall be made under section 6654 of the Internal Revenue Code of 1954 with respect to any underpayment to the extent such underpayment is attributable to unemployment compensation which is received during 1982 and which (but for the amendments made by subsection (a)) would not be includable in gross income.

(3) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxable year (other than a calendar year) which includes January 1, 1982—

26 USC 85.

26 USC 85 note.

(A) the amendments made by this section shall be applied by taking into account the entire amount of unemployment compensation received during such taxable year, but

(B) the increase in gross income for such taxable year as a result of such amendments shall not exceed the amount of unemployment compensation paid after December 31, 1981.

(4) **UNEMPLOYMENT COMPENSATION DEFINED.**—For purposes of this subsection, the term “unemployment compensation” has the meaning given to such term by section 85(c) of the Internal Revenue Code of 1954.

Approved September 3, 1982.

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**LEGISLATIVE HISTORY—H.R. 4961:**

HOUSE REPORTS: No. 97-404 (Comm. on Ways and Means) and No. 97-760 (Comm. of Conference).

SENATE REPORTS: No. 97-494 Vols. 1 and 2 (Comm. on Finance) and No. 97-530 (Comm. of Conference).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): July 19-22, considered and passed Senate, amended.

Aug. 19, House and Senate agreed to conference report.

Public Law 97-249  
97th Congress

An Act

Sept. 8, 1982

[H.R. 6732]

To amend the International Safe Container Act.

International  
Safe Container  
Act,  
amendment.  
46 USC 1502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the International Safe Container Act (46 U.S.C. 1501-1508) is amended—

(1) by amending section 3(b) to read as follows:

“(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before January 1, 1985, an owner of an approved existing container may have a safety approval plate affixed to it, if that container is found to meet the standards of the Convention.”; and

46 USC 1504

(2) by amending section 5(a)(2) by striking out “September 6, 1982” and inserting in lieu thereof “January 1, 1985”.

Effective date.  
46 USC 1502  
note.

SEC. 2. This Act shall take effect on the later of the date of its enactment or September 6, 1982.

Approved September 8, 1982.

LEGISLATIVE HISTORY—H.R. 6732:

HOUSE REPORT No. 97-737 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 17, considered and passed House.

Aug. 20, considered and passed Senate.

Public Law 97-250  
97th Congress

## An Act

To correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

Sept. 8, 1982  
[S. 1119]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth", approved May 22, 1902 (32 Stat. 202), as amended, is further amended by revising the second sentence thereof to read as follows: "The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, 'Crater Lake National Park, Oregon', numbered 106-80-001-A, and dated March 1981, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.".

Crater Lake  
National Park  
Oreg.  
Boundary  
corrections.  
16 USC 121.

Map; filing and  
availability.

(b) Lands, water, and interests therein excluded from the boundary of Crater Lake National Park by subsection (a) are hereby made a part of the Rogue River National Forest, and the boundary of such national forest is revised accordingly.

Rogue River  
National Forest.  
16 USC 121 note.

(c) The Secretary of the Interior is authorized and directed to promptly instigate studies and investigations as to the status and trends of change of the water quality of Crater Lake, and to immediately implement such actions as may be necessary to assure the retention of the lake's natural pristine water quality. Within two years of the effective date of this provision, and biennially thereafter for a period of ten years, the Secretary shall report the results of such studies and investigations, and any implementation actions instigated, to the appropriate committees of the Congress.

Water quality  
studies and  
investigations.  
16 USC 122a.

Report to  
congressional  
committees.

SEC. 2. (a) In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Cumberland Island National Seashore, Georgia, which comprise about eight thousand eight hundred and forty acres, and which are depicted on the map entitled "Wilderness Plan, Cumberland Island National Seashore, Georgia", dated November 1981, and numbered 640-20038E, are hereby designated as wilderness and therefor, as components of the National Wilderness Preservation System. Certain other lands in the Seashore, which comprise about eleven thousand seven hundred and eighteen acres, and which are designated on such map as "Potential Wilderness", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, designated wilderness. Such notice shall be published with respect to any tract within such eleven thousand seven hundred and eighteen acre area after the Secretary has determined that such uses have ceased on that tract. The map and a description of the boundaries of the areas designated by this section as wilderness shall be on

Cumberland  
Island National  
Seashore, Ga.  
16 USC 1132  
note.

Notice;  
publication in  
Federal  
Register.

Map and  
boundaries  
description;  
filing and  
availability.

file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Cumberland Island National Seashore.

(b) Within six months after the enactment of this Act, a map and a description of the boundaries of the Cumberland Island Wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made.

Cumberland  
Island  
Wilderness.

(c) The wilderness area designated by this section shall be known as the Cumberland Island Wilderness. Subject to valid existing rights, the wilderness area shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Approved September 8, 1982.

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LEGISLATIVE HISTORY—S. 1119:

HOUSE REPORT No. 97-383 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-205 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 21, considered and passed Senate.

Dec. 15, considered and passed House, amended.

Vol. 128 (1982): Aug. 19, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 36 (1982):  
Sept. 9, Presidential statement.

Public Law 97-251  
97th Congress

An Act

To amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.

Sept. 8, 1982  
[H.R. 6350]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans'  
Administration  
Health-Care  
Programs  
Improvement  
and Extension  
Act of 1982.  
38 USC 101 note.

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

38 USC 4107.

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably

representative sampling of non-Federal health-care facilities in the geographic area involved).

“(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

“(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.”

(b) Section 4107(f) is amended by striking out “paragraphs (2) through (8) of”.

(c) Section 4107 is amended by adding at the end the following new subsection:

“(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans’ Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled twelve-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full forty-hour basic workweek.

“(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full forty-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled twelve-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse’s annual rate of basic pay by one thousand two hundred and forty-eight.

Overtime pay.

“(C)(i) Such a nurse who performs a period of service in excess of such nurse’s regularly scheduled two twelve-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

“(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled twelve-hour tour of duty.



“(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse’s regularly scheduled two twelve-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of forty hours during an administrative workweek.

“(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled twelve-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

“(4) The Administrator shall prescribe regulations for the implementation of this subsection.”.

Regulations.

(d)(1) Not later than one hundred and twenty days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

Proposed regulations; publication in Federal Register. 38 USC 4107 note.

(2) Not later than three hundred days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

Final regulations; publication in Federal Register.

#### HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

38 USC 4142.

(1) in subsection (a)—

(A) by striking out “full-time” in clause (1); and

(B) by adding below clause (4) the following new sentences:

“To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans’ Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a ‘part-time student’).”;

Participant eligibility requirements.

(2) in subsection (e)(1)(A)(i), by inserting “(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as a result of such extension)” after “years”;

(3) in subsection (e)(1)(B)—

(A) by inserting “(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)” in division (iv)(I) after “Scholarship Program”;

(B) by striking out “years; and” in division (iv)(II) and inserting in lieu thereof “years (or, in the case of a participant who is a part-time student, one calendar year);”;

(C) by inserting “and” at the end of division (v); and

(D) by adding at the end the following new division:

“(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans’ Administration employee permanently assigned to a Veterans’ Administration health-care facility;”;

(3) in subsection (f)—

Stipend;  
limitations.

(A) by inserting a comma and “except that a stipend may not be paid to a participant who is a full-time employee of the Veterans’ Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section” before the period at the end of paragraph (1)(B); and

(B) by inserting “maximum” after “The” in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

“(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans’ Administration employee permanently assigned to a Veterans’ Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

“(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

Maximum  
stipend.

“(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

“(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

Scholarship  
award period  
extension.

“(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States.”; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting “by virtue of their participation in such program (1)” after “Program shall not”;

(B) by striking out “and shall not” and inserting in lieu thereof a comma and “or (2)”;

(C) by striking out “employment” and inserting in lieu thereof “personnel”; and

(D) by striking out “while they” and all that follows through “clinical training”.

(b)(1) Section 4143(b) is amended—

(A) by inserting “who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student” in paragraph (1) after “Scholarship Program”;

(B) by amending paragraph (2) to read as follows:

“(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

“(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

“(B) in the case of a participant who is such an employee but is not serving in a position for which such participant’s course of training prepared such participant, assign such participant to such a position.”;

(C) in paragraph (3)(B) by inserting “the later of (i) the date upon which the participant completes such participant’s course of training, or (ii)” after “is”; and

(D) by adding at the end the following new paragraph:

“(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.”.

(2) Section 4143(c) is amended to read as follows:

“(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant’s period of obligated service—

“(A) on the date, after such participant’s course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

“(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant’s course of training prepared such participant.

“(2) A participant in the Scholarship Program who on such participant’s course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant’s course of training prepared such participant shall be considered to have begun serving such participant’s period of obligated service on such course completion date.

“(3) For the purposes of this subsection, the term ‘course completion date’ means the date on which a participant in the Scholarship Program completes such participant’s course of training under the program.”.

“Course completion date.”

(c) Section 4144(b) is amended—

38 USC 4144.

(1) in clauses (1) and (2), by striking out the semicolon at the end and inserting in lieu thereof a comma;

(2) by striking out the semicolon and “or” at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and “or”; and

(4) by inserting after clause (4) the following new clause:

“(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of

training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility,".

**CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS**

38 USC 601. SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,".

**RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES**

38 USC 613 SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits."

Effective date.  
38 USC 613 note. (b) The amendment made by subsection (a) shall take effect on October 1, 1982.

**EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM**

38 USC 620A. SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983," respectively.

**TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES**

38 USC 643. SEC. 7. Section 643 is amended by striking out "of any war".

**AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES**

38 USC 5033. SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorized to be appropriated \$15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years."

**EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES**

38 USC 5054. SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

**REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION**

Report to Congress.  
38 USC 219 note. SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans'

Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

Approved September 8, 1982.

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**LEGISLATIVE HISTORY—H.R. 6350 (S. 2385):**

HOUSE REPORT No. 97-543 (Comm. on Veterans' Affairs).

SENATE REPORT No. 97-467 accompanying S. 2385 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 14, 15, considered and passed House.

June 21, considered and passed Senate, amended, in lieu of S. 2385.

Aug. 19, House concurred in Senate amendments with amendments.

Aug. 20, Senate concurred in House amendments.

Public Law 97-252  
97th Congress

An Act

Sept. 8, 1982  
[S. 2248]

Department of  
Defense  
Authorization  
Act, 1983.

To authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Department of Defense Authorization Act, 1983”.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, weapons and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, \$2,541,600,000.

For missiles, \$2,846,600,000.

For weapons and tracked combat vehicles, \$4,707,600,000.

For ammunition, \$2,486,400,000.

For other procurement, \$4,391,100,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft for the Navy in the amount of \$11,304,600,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, \$3,058,600,000.

For the MK-48 torpedo program, \$134,300,000.

For the MK-46 torpedo program, \$141,200,000.

For the MK-60 torpedo program, \$151,400,000.

For the MK-30 mobile target program, \$19,400,000.

For the MK-38 mini-mobile target program, \$2,300,000.

For the anti-submarine rocket (ASROC) program, \$10,100,000.

For the modification of torpedoes, \$89,300,000.

For the torpedo support equipment program, \$66,900,000.

For the MK-15 close-in weapons system program,  
\$118,700,000.

For the MK-75 76-millimeter gun mount program,  
\$10,700,000.

For the MK-19 gun mount program, \$400,000.

For the 25-millimeter gun mount program, \$400,000.

For the modification of guns and gun mounts, \$19,700,000.

For the guns and gun mounts support equipment program, \$17,500,000.

(c) **SHIPBUILDING AND CONVERSION.**—Funds are hereby authorized to be appropriated for fiscal year 1983 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, \$1,786,000,000.

For the CVN nuclear aircraft carrier program, \$6,795,300,000.

For the SSN-688 nuclear attack submarine program, \$1,443,400,000.

For the battleship reactivation program, \$417,400,000.

For the aircraft carrier service life extension program, \$699,500,000.

For the CG-47 Aegis cruiser program, \$3,134,400,000.

For the LSD-41 landing ship dock program, \$417,000,000.

For the LHD-1 air-capable amphibious ship program, \$55,000,000.

For the FFG-7 guided missile frigate program, \$706,400,000, of which \$40,000,000 is available only for an X-band phased array radar.

For the mine countermeasures (MCM) ship program, \$371,600,000.

For the T-AO fleet oiler ship program, \$320,000,000.

For the ARS salvage ship program, \$84,000,000.

For the TAKRX fast logistic ship program, \$322,600,000.

For the TAHX hospital ship program, \$300,000,000.

For service craft and landing craft, \$162,100,000.

For outfitting, post delivery, cost growth, and escalation on prior year programs, \$828,100,000.

For ship contract design, \$97,200,000.

For the manufacturing technology program, \$25,000,000.

(d) **OTHER.**—Funds are hereby authorized to be appropriated for fiscal year 1983 for other procurement for the Navy in the amount of \$3,936,500,000, of which—

(1) the sum of \$568,900,000 is available only for the ship support equipment program;

(2) the sum of \$1,484,600,000 is available only for the communications and electronics equipment program; and

(3) the sum of \$786,200,000 is available only for the ordnance support equipment program.

(e) **PROCUREMENT, MARINE CORPS.**—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of \$2,131,600,000.

#### AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

**SEC. 103.** (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, \$17,485,700,000.

For missiles, \$6,038,700,000.

For other procurement, \$5,656,700,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of \$186,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1983 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

(c) Of the funds authorized to be appropriated in this section for missiles for the Air Force, the sum of \$988,000,000 is available only for the Advanced Intercontinental Ballistic Missile (MX) program. Of such amount, \$158,000,000 is authorized for basing and deployment and may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

#### AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 104. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, and other procurement for the reserve components of the Armed Forces as follows:

For the Army National Guard, \$50,000,000.  
 For the Air National Guard, \$30,000,000.  
 For the Army Reserve, \$30,000,000.  
 For the Naval Reserve, \$30,000,000.  
 For the Marine Corps Reserve, \$30,000,000.  
 For the Air Force Reserve, \$30,000,000.

(b) The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

#### AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 105. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement by the Defense agencies in the amount of \$859,600,000.

#### CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective date.

SEC. 106. Effective on October 1, 1982, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983".

#### REQUIREMENTS RELATING TO MULTIYEAR CONTRACTS FOR CERTAIN EQUIPMENT

SEC. 107. (a) Notwithstanding any other provision of law, a multiyear contract for the procurement of any of the equipment listed in subsection (b) may not be entered into until—

(1) the Secretary of the military department concerned has submitted to the Committees on Armed Services of the Senate and House of Representatives a written report setting forth the

Report to congressional committees.



justification for entering into a multiyear contract for the procurement of the equipment concerned; and

(2) a period of thirty days has elapsed after the date on which the report is received by those committees.

(b) The equipment referred to in subsection (a) is the following:

- (1) F-111 weapon navigation computers.
- (2) C-2 aircraft.
- (3) EA-6B aircraft.
- (4) A-6E aircraft.
- (5) MULE laser designators.
- (6) CH-53E helicopters.
- (7) MLRS rocket systems.
- (8) ALQ-136 radio jammers.

#### ENHANCEMENT OF NORTH AMERICAN AIR DEFENSE COMMAND LOW LEVEL RADAR CAPABILITIES IN FLORIDA

SEC. 108. The Secretary of the Air Force, using funds available under section 103, may acquire one tethered aero-stat radar set (of the type currently in use at Cudjoe Key, Florida) for deployment at Kennedy Air Force Station, Florida. Concurrently with such procurement, the Secretary shall provide for necessary improvements to the radar set to be acquired and the existing set at Cudjoe Key, Florida. Such improvements and the operation and maintenance of such radar sets may be provided using funds available under this Act.

#### SECURE COMMUNICATIONS EQUIPMENT AND A SPECIAL CLASSIFIED PROGRAM

SEC. 109. The Secretary of Defense is authorized to procure secure telephone communication systems, including equipment and related items, during fiscal year 1983 for the Department of Defense and other government agencies and entities to support a national program to provide secure telephone service. Of the funds authorized to be appropriated pursuant to this title, not more than \$50,000,000 may be used to provide secure telephone equipment and related items to the Department of Defense and other government agencies and entities in support of such a national program. Equipment provided to government agencies and entities outside the Department of Defense under the authority of this section and such related services as may be necessary may be furnished by the Secretary of Defense without reimbursement. In addition, of the funds authorized to be appropriated pursuant to this Act, not more than \$132,000,000 is authorized for a special classified program.

#### PROHIBITION OF ACQUISITION OF 9-MILLIMETER HANDGUN

SEC. 110. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended in connection with the purchase of a 9-millimeter handgun for the Armed Forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces.

**TITLE II—RESEARCH, DEVELOPMENT, TEST, AND  
EVALUATION****AUTHORIZATION OF APPROPRIATIONS**

**SEC. 201.** (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, \$3,926,367,000.

For the Navy (including the Marine Corps), \$6,129,115,000.

For the Air Force, \$10,720,884,000, of which \$1,000,000 is available only for research, development, test, and evaluation of the C-17 type cargo transport aircraft.

For the Defense Agencies, \$2,271,503,000, of which \$55,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

(c) Of the total amount authorized to be appropriated in this section for research, development, test, and evaluation for the Air Force related to the basing of the MX missile system, \$715,000,000 may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the long-term basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

**LIMITATION ON FUNDS FOR THE NAVY**

**SEC. 202.** (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) \$12,000,000 is available only for the development of a derivative of the Firebolt advanced aerial target;

(2) \$15,000,000 is available only for the phased array radar improvement program for the MK-92 fire control system;

(3) \$60,000,000 is available only for the development, test, evaluation, and initial deployment of the 5-inch semi-active laser guided projectile and the Seafire electro-optical fire control system;

(4) \$26,500,000 is available only for the Medium-Range Air-to-Surface Missile (MRASM) System;

(5) \$138,595,000 is available, subject to subsection (b), only for the DDG-X (DDG-51) ship program;

(6) \$900,000,000 is available only for Surface Warfare programs; and

(7) \$5,555,000 is available only for the development of an advanced mine to replace the Captor mine.

(b) None of the funds appropriated pursuant to the authorization of appropriations in section 201 for the Navy may be obligated or expended for the DDG-X (DDG-51) ship program until the Secretary of the Navy has submitted to the Committees on Armed Services of the Senate and House of Representatives a plan for the deployment of the 5-inch semi-active laser guided projectile and Seafire electro-optical fire control system concurrently with the deployment of the DDG-51 lead ship.

REQUIREMENT FOR COMPETITION BETWEEN THE AIR FORCE LANTIRN  
AND FLIR SYSTEMS

SEC. 203. No funds appropriated pursuant to this title for the Air Force may be obligated or expended for the development of the Low Altitude Navigation Targeting System for Night (LANTIRN) System until the Secretary of the Air Force submits to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a written statement certifying that the LANTIRN program has been restructured to provide a competitive demonstration between the current LANTIRN System and a suitably modified version of the Navy's F/A-18 aircraft FLIR System. The Secretary of the Air Force may not enter into any contract for the production of the Targeting Infrared for Night (TIRN) System until after a competitive demonstration between the LANTIRN System and the suitably modified version of the Navy's F/A-18 aircraft FLIR System has been carried out.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

- For the Army, \$16,750,050,000.
- For the Navy, \$21,702,550,000.
- For the Marine Corps, \$1,472,500,000.
- For the Air Force, \$17,339,500,000.
- For the Defense Agencies, \$5,693,650,000.
- For the Army Reserve, \$704,889,000.
- For the Naval Reserve, \$671,700,000.
- For the Marine Corps Reserve, \$51,115,000.
- For the Air Force Reserve, \$766,300,000.
- For the Army National Guard, \$1,166,900,000.
- For the Air National Guard, \$1,779,000,000.
- For the National Board for the Promotion of Rifle Practice, \$875,000.
- For Defense Claims, \$172,500,000.
- For the Court of Military Appeals, \$3,210,000.

(b) There are authorized to be appropriated for fiscal year 1983, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

- (1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of

the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a);

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by subsection (a).

#### LIMITATION ON FUNDS FOR SHIP OVERHAULS

SEC. 302. Of the amount appropriated pursuant to authorizations of appropriation in section 301 for the Navy, not more than \$2,756,000,000 may be obligated or expended for ship overhauls.

#### RESTRICTION ON LONG-TERM LEASES OF VESSELS FOR THE NAVY

Notification to congressional committees.

SEC. 303. (a) None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended in connection with a long-term lease of a vessel for the Navy if the lease includes a substantial termination liability unless and until (1) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed lease, and (2) a period of thirty days has elapsed after the date on which such committees receive such notification. Any such notification shall include a description of the terms of the proposed lease and a justification for entering into such a lease rather than obtaining the vessel involved by acquisition.

(b) Subsection (a) does not apply with respect to the lease of a vessel if the vessel was being leased by the Navy on September 30, 1982.

#### T-5 REPLACEMENT TANKER PROGRAM

SEC. 304. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title for the Navy may be obligated or expended for any activity in connection with the lease of any vessel associated with the T-5 Replacement Tanker program which has a main propulsion system or any other major component not built in the United States.

(b) Subsection (a) does not apply with respect to the lease of a vessel if a contract for the lease of that vessel results from a request for proposal circulated before July 1, 1982.

#### LIMITATION ON STUDIES OF CONTRACTING-OUT OF CERTAIN COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 305. (a)(1) Except as provided in paragraph (2), funds appropriated pursuant to an authorization of appropriations in this title may not be obligated or expended in connection with any study begun during the period beginning on October 1, 1982, and ending on March 31, 1983, of the benefits or feasibility of contracting for performance by contractor personnel of any commercial or industrial type function or activity of the Department of Defense being performed by Department of Defense personnel on September 30, 1982.

(2) Paragraph (1) does not prohibit the obligation or expenditure of funds in connection with—

(A) any study the purpose of which is to determine the most efficient and cost effective organization of any commercial or industrial type function of the Department of Defense for performance by Department of Defense personnel; or

(B) any study carried out with respect to the contracting for the performance by contractor personnel, rather than Department of Defense personnel, of any of the following:

- (i) Custodial functions.
- (ii) Laundry functions.
- (iii) Refuse collection functions.
- (iv) Grounds maintenance functions.
- (v) Food service and preparation functions (other than commissaries).
- (vi) Base transportation functions.

(b) Of the total amount of funds authorized in this title, \$283,800,000 is available only for salaries and other costs for the employment of and performance of functions by direct-hire civilian employees of the Department of Defense in excess of 947,000 such employees.

#### TITLE IV—ACTIVE FORCES

##### AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

- (1) The Army, 782,500.
- (2) The Navy, 560,300.
- (3) The Marine Corps, 194,600.
- (4) The Air Force, 592,600.

##### AUTHORITY TO EXCEED END-STRENGTH AUTHORIZATIONS

SEC. 402. (a) Section 138(c)(1)(A) of title 10, United States Code, is amended by inserting the following new sentence after the first sentence: "The end strength authorized for a component of the armed forces for a fiscal year may be increased by a number equal to not more than 0.5 percent of the total end strength authorized for such component for that fiscal year if the Secretary of Defense determines that such increase is in the national interest."

(b) The amendment made by subsection (a) shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981.

10 USC 138 note.

##### QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

SEC. 403. Effective on October 1, 1982, section 302(a) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 10 U.S.C. 520 note), is amended by striking out "October 1, 1981" and "September 30, 1982" and inserting in lieu thereof "October 1, 1982" and "September 30, 1983", respectively.

Effective date.

##### SAVING PROVISION FOR CERTAIN ACCRUED LEAVE

SEC. 404. A member of the Armed Forces who was authorized under section 701(f) of title 10, United States Code, to accumulate ninety days leave during fiscal year 1980 and who lost any leave at

the end of fiscal year 1981 shall be credited with the amount of the leave lost and may retain leave in excess of sixty days until the end of fiscal year 1982, but in no case may a member accumulate leave in excess of ninety days.

## TITLE V—RESERVE FORCES

### AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

**SEC. 501.** (a) For fiscal year 1983 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

- (1) The Army National Guard of the United States, 407,400.
- (2) The Army Reserve, 258,700.
- (3) The Naval Reserve, 105,500.
- (4) The Marine Corps Reserve, 38,300.
- (5) The Air National Guard of the United States, 101,100.
- (6) The Air Force Reserve, 66,000.
- (7) The Coast Guard Reserve, 12,000.

Reduction.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

Increase.

### AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

**SEC. 502.** Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 14,419.
- (2) The Army Reserve, 8,251.
- (3) The Naval Reserve, 12,038.
- (4) The Marine Corps Reserve, 678.
- (5) The Air National Guard of the United States, 5,158.
- (6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

**INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON  
ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS**

**SEC. 503.** (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9.....	265	156	132	6
E-8.....	1,244	329	441	56".

(b) The columns under the headings "Army", "Air Force", and "Marine Corps" in the table in section 524(a) of such title are amended to read as follows:

10 USC 524.

"Army	Air Force	Marine Corps
1,351	281	95
671	267	40
234	170	21".

## TITLE VI—CIVILIAN PERSONNEL

### AUTHORIZATION OF END STRENGTH

**SEC. 601.** (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1983, of 1,050,060.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Apportionment.

Report to Congress.

(c)(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program.

Direct-hire and indirect-hire civilian personnel.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed

Part-time career employees.  
5 USC 3404.

5 USC 3404.

Transfer or  
assigned  
personnel.

service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Excess  
employees,  
limitation;  
notification to  
Congress.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1983 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

Notification to  
Congress.

## TITLE VII—MILITARY TRAINING STUDENT LOADS

### AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

- (1) The Army, 78,311.
- (2) The Navy, 66,930.
- (3) The Marine Corps, 20,435.
- (4) The Air Force, 48,769.
- (5) The Army National Guard of the United States, 18,052.
- (6) The Army Reserve, 14,579.
- (7) The Naval Reserve, 1,000.
- (8) The Marine Corps Reserve, 2,971.
- (9) The Air National Guard of the United States, 2,328.
- (10) The Air Force Reserve, 1,351.

Apportionment.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

### EXTENSION OF REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS

10 USC 2031  
note.

SEC. 702. Section 602 of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1087), is amended by striking



out "August 31, 1982" and inserting in lieu thereof "August 31, 1983".

## TITLE VIII—CIVIL DEFENSE

### AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1983 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of \$152,340,000.

### AMOUNT AUTHORIZED FOR CONTRIBUTION FOR STATE PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 802. Notwithstanding the second proviso of section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260), \$60,000,000 of the amount authorized to be appropriated by the first section of this Act is available for appropriations for contributions to the States under section 205 of such Act (50 U.S.C. App. 2286) for personnel and administrative expenses.

## TITLE IX—SUPPLEMENTAL AUTHORIZATIONS FOR FISCAL YEAR 1982

### PROCUREMENT

SEC. 901. In addition to the funds authorized to be appropriated in title I of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1099), there is hereby authorized to be appropriated to the Air Force for fiscal year 1982 for procurement of aircraft the sum of \$120,000,000.

### OPERATION AND MAINTENANCE

SEC. 902. In addition to the funds authorized to be appropriated in title III of the Department of Defense Authorization Act, 1982, funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for operation and maintenance in amounts as follows:

95 Stat. 1103.

For the Army, Army Reserve, and Army National Guard, \$6,600,000.

For the Navy, the Naval Reserve, and the Marine Corps, \$5,000,000.

For the Air Force, Air Force Reserve, and Air National Guard, \$25,000,000.

For the Defense Agencies and other Defense-wide activities, \$25,800,000.

### INCREASE IN END STRENGTH AUTHORIZED FOR THE ARMY FOR FISCAL YEAR 1982

SEC. 903. Section 401 of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1104), is amended by striking out "Army, 780,300" and inserting in lieu thereof "Army, 782,500".

Uniformed  
Services Former  
Spouses'  
Protection Act.

10 USC 1401  
note.

## TITLE X—FORMER SPOUSES' PROTECTION

### SHORT TITLE

SEC. 1001. This title may be cited as the "Uniformed Services Former Spouses' Protection Act".

### PAYMENT OF RETIRED AND RETAINER PAY

SEC. 1002. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 1408.

**"§ 1408. Payment of retired or retainer pay in compliance with court orders**

Definitions.

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

"(2) 'Court order' means a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))";

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))"; or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

"(3) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(4) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled

(other than the retired pay of a member retired for disability under chapter 61 of this title) less amounts which—

10 USC 1201 *et seq.*

“(A) are owed by that member to the United States;

“(B) are required by law to be and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

5 USC 101; 38 USC 101.

“(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

“(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

“(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

“(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

10 USC 1431 *et seq.*

“(5) ‘Member’ includes a former member.

“(6) ‘Spouse or former spouse’ means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

“(b) For the purposes of this section—

“(1) service of a court order is effective if—

“(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

“(B) the court order is regular on its face;

“(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

“(D) the court order or other documents served with the court order certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 *et seq.*) were observed; and

“(2) a court order is regular on its face if the order—

“(A) is issued by a court of competent jurisdiction;

“(B) is legal in form; and

“(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

“(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order a member to apply for retirement or retire at a particular time in order to effectuate any payment under this section.

"(4) A court may not treat the disposable retired or retainer pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court.

"(d)(1) After effective service on the Secretary concerned of a court order with respect to the payment of a portion of the retired or retainer pay of a member to the spouse or a former spouse of the member, the Secretary shall, subject to the limitations of this section, make payments to the spouse or former spouse in the amount of the disposable retired or retainer pay of the member specifically provided for in the court order. In the case of a member entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date of effective service. In the case of a member not entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date on which the member first becomes entitled to receive retired or retainer pay.

"(2) If the spouse or former spouse to whom payments are to be made under this section was not married to the member for a period of 10 years or more during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired or retainer pay, payments may not be made under this section to the extent that they include an amount resulting from the treatment by the court under subsection (c) of disposable retired or retainer pay of the member as property of the member or property of the member and his spouse.

"(3) Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with a court order.

"(4) Payments from the disposable retired or retainer pay of a member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

"(5) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired or retainer pay.

“(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) may not exceed 50 percent of such disposable retired or retainer pay.

“(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse from the disposable retired or retainer pay of a member, such pay shall be used to satisfy (subject to the limitations of paragraph (1)) such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

“(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

“(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

“(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

“(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i); and

“(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

“(iii) pay to that member the amount which is equal to the amount of that member’s disposable retired or retainer pay (less any amount paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amount paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

“(I) the amount of disposable retired or retainer pay paid under clause (i); and

“(II) the amount of disposable retired or retainer pay retained under clause (ii).

“(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

“(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same

member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

“(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to a member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

“(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay that exceeds the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4), shall not be considered to be irregular on its face solely for that reason. However, such order shall be considered to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the maximum amount of disposable retired or retainer pay permitted under paragraph (1) and subparagraph (B) of paragraph (4).

“(6) Nothing in this section shall be construed to relieve a member of liability for the payment of alimony, child support, or other payments required by a court order on the grounds that payments made out of disposable retired or retainer pay under this section have been made in the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4). Any such unsatisfied obligation of a member may be enforced by any means available under law other than the means provided under this section in any case in which the maximum amount permitted under paragraph (1) has been paid and under section 459 of the Social Security Act (42 U.S.C. 659) in any case in which the maximum amount permitted under subparagraph (B) of paragraph (4) has been paid.

“(f)(1) The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h).

“(2) An officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

“(g) A person receiving effective service of a court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of

such court order (together with a copy of such order) to the member affected by the court order at his last known address.

“(h) The Secretaries concerned shall prescribe uniform regulations for the administration of this section.”. Regulations.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1408. Payment of retired or retainer pay in compliance with court orders.”.

#### ANNUITIES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1003. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

“(6) ‘Former spouse’ means the surviving former husband or wife of a person who is eligible to participate in the Plan. Definitions.

“(7) ‘Court’ has the meaning given that term by section 1408(a)(1) of this title. Ante, p. 730.

“(8) ‘Court order’ means a court’s final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

“(9) ‘Final decree’ means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

“(10) ‘Regular on its face’, when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.”.

Ante, p. 730.  
10 USC 1448.

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting “or elects to provide an annuity under subsection (b)(2) of this section,” after “for his spouse,”; and

(B) in paragraph (3)(B) by inserting “or elects to provide an annuity under subsection (b)(2) of this section,” after “for his spouse,”.

(2) Section 1448(b) of such title is amended to read as follows:

“(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

“(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a written agreement entered into voluntarily with the former spouse (without regard to whether such agreement is included in or approved by a court order).

“(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether the election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order."

10 USC 1450.

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)".

(d) Section 1450(f) of such title is amended to read as follows:

*Ante*, p. 735.

"(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title.

"(2) A person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) unless—

"(A) in a case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in a case in which such agreement has not been incorporated or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election."



## MEDICAL BENEFITS

**SEC. 1004.** (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out “and” at the end of clause (D);  
 (2) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon and “and”; and

(3) by adding at the end thereof the following new clause:

“(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member’s or former member’s eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan.”.

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: “A dependent described in section 1072(2)(F) of this title may be provided medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause.”.

10 USC 1076.

(c) Section 1086(c) of such title is amended by inserting after clause (2) the following new clause:

10 USC 1086.

“(3) A dependent covered by section 1072(2)(F) of this title.”.

10 USC 1072.

## COMMISSARY AND EXCHANGE PRIVILEGES

**SEC. 1005.** The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of title 10, United States Code (as added by section 1004), is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

Regulations.  
 10 USC 1408  
 note.

## EFFECTIVE DATES AND TRANSITION

**SEC. 1006.** (a) The amendments made by this title shall take effect on the first day of the first month which begins more than one hundred and twenty days after the date of the enactment of this title.

10 USC 1408  
 note.

(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 1002(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of this title, but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

*Ante*, p. 730.

(c) The amendments made by section 1003 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan provided for in subchapter II of chapter 73 of title 10, United States Code, before, on, or after the effective date of such amendments.

10 USC 1447.

(d) The amendments made by section 1004 of this title and the provisions of section 1005 of this title shall apply in the case of any

former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

Definitions.

(e) For the purposes of this section—

*Ante*, p. 730.

(1) the term “court order” has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 1002 of this title);

(2) the term “former spouse” has the same meaning as provided in section 1408(a)(6) of such title (as added by section 1002 of this title); and

(3) the term “uniformed services” has the same meaning as provided in section 1408(a)(7) of such title (as added by section 1002 of this title).

## TITLE XI—GENERAL PROVISIONS

### TRANSFER AUTHORITY

SEC. 1101. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed \$1,500,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

Notification to Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

### WAIVER OF AUTHORIZATION REQUIREMENT FOR CERTAIN PREVIOUSLY APPROPRIATED FUNDS

SEC. 1102. The provisions of section 138(a) of title 10, United States Code, providing that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law shall not apply with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

(1) Procurement of aircraft for the Army.

(2) Procurement of aircraft for the Air Force.

(3) Procurement of missiles for the Air Force.

(4) Operations and maintenance for Defense-wide activities.

### INCREASE IN AUTHORIZATION FOR SPECIAL DEFENSE ACQUISITION FUND

95 Stat. 1524.

SEC. 1103. Section 138(g) of title 10, United States Code, is amended—

(1) by striking out “and” after “1982” and inserting in lieu thereof a comma; and

(2) by inserting “, and may not exceed \$900,000,000 in fiscal year 1984” after “1983”.

INCREASE IN DOLLAR THRESHOLD FOR REPORTS TO CONGRESS  
REGARDING TRANSFER OF DEFENSE ARTICLES

SEC. 1104. Section 813 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 133 note), is amended by striking out “\$25,000,000” and inserting in lieu thereof “\$50,000,000”.

REPORTS ON FUNDING OF TECHNOLOGY TRANSFER CONTROL POLICY

SEC. 1105. Section 138 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(h) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.”.

Allocation of  
funds.

LIMITATION ON DEFENSE FUNDS FOR SPACE SHUTTLE

SEC. 1106. Notwithstanding any other provision of law, during fiscal year 1983 the Secretary of Defense shall not transfer funds to the Administrator of the National Aeronautics and Space Administration to pay any part of the cost of placing Department of Defense payloads into orbit by means of the Space Shuttle except in accordance with laws in effect on July 1, 1982, and interagency agreements made pursuant to such laws.

IMPROVED OVERSIGHT OF COST GROWTH IN MAJOR DEFENSE  
ACQUISITION PROGRAMS

SEC. 1107. (a)(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 139 the following new sections:

**“§ 139a. Oversight of cost growth in major programs: Selected Acquisition Reports**

10 USC 139a.

“(a) In this section:

Definitions.

“(1) ‘Major defense acquisition program’ means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

“(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

“(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than \$200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total

expenditure for procurement of more than \$1,000,000,000 (based on fiscal year 1980 constant dollars).

“(2) ‘Program acquisition unit cost’, with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

“(3) ‘Procurement unit cost’, with respect to a major defense acquisition program, means the amount equal to (A) the total of all procurement funds appropriated for the program for a fiscal year, reduced by the amount of funds appropriated for such fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year, divided by (B) the number of fully-configured end items to be procured with such funds during such fiscal year.

“(4) ‘Major contract’, with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program that is one of the six largest contracts under the program in dollar amount.

Selected  
Acquisition  
Reports.

“(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

“(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and there has been no change in program cost, performance, or schedule since the most recent such report.

“(3) A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives.

10 USC 139.

“(c) Each Selected Acquisition Report for the first quarter of a fiscal year shall include (1) the same information, in detailed and summarized form, as is provided in reports submitted under section 139 of this title, (2) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (3) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

“(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

“(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (e); and

“(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

“(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

Quarterly  
Selected  
Acquisition  
Reports.

“(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

“(1) The quantity of items to be purchased under the program.

“(2) The program acquisition cost.

“(3) The program acquisition unit cost.

“(4) The current procurement cost for the program.

“(5) The current procurement unit cost for the program.

“(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

“(7) The major contracts under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

“(8) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

“(9) Program highlights since the last Selected Acquisition Report.

“(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 30 days after the end of the fiscal-year quarter. If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report.

Submittal dates.

**“§ 139b. Oversight of cost growth of major programs: unit cost reports**

10 USC 139b.

“(a) In this section:

Definitions.

“(1) ‘Major defense acquisition program’, ‘program acquisition unit cost’, ‘procurement unit cost’, and ‘major contract’ have the same meanings as provided in section 139a(a) of this title.

*Ante*, p. 739.

“(2) ‘Baseline Selected Acquisition Report’, with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means the Selected Acquisition Report in which information on the program is first included or the comprehensive annual Selected Acquisition Report for the fiscal year immediately before the fiscal year containing the quarter with respect to which the unit cost report is submitted, whichever is later.

"(3) 'Procurement program' means a program for which funds for procurement are authorized to be appropriated in a fiscal year.

Unit cost report.

"(b) The program manager for a defense acquisition program that as of the end of a fiscal-year quarter is a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 139a(b)(3) of this title) shall, not more than 7 days after the end of that quarter, submit to the Secretary concerned a written report on the unit costs of the program. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

*Ante*, p. 739.

Information.

"(1) The program acquisition unit cost.

"(2) In the case of a procurement program, the procurement unit cost.

"(3) Any cost variance or schedule variance in a major contract under the program since the baseline Selected Acquisition Report was submitted.

"(4) Any changes from program schedule milestones or program performances reflected in the baseline Selected Acquisition Report that are known, expected, or anticipated by the program manager.

"(c)(1) If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under subsection (b) determines at any time during a fiscal-year quarter that there is reasonable cause to believe—

"(A) that the program acquisition unit cost for the program has increased by more than 15 percent over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report;

"(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 15 percent over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report; or

"(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent over the cost of the contract as of the time the contract was made;

and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the Secretary concerned during the current fiscal year (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year), then the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required under subsection (b).

"(2) If in any fiscal year the program manager for a major defense acquisition program has submitted to the Secretary concerned a unit cost report (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year) indicating an increase of 15 percent or more in a category described in clauses (A) through (C) of paragraph (1) and subsequently determines that there is reasonable cause to believe—

"(A) that the current program acquisition unit cost of the program has increased by more than 5 percent over the current program acquisition unit cost as shown in the most recent

report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

“(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 5 percent over the current procurement unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program; or

“(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 5 percent over the cost of the contract as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required by subsection (b).

Report.

“(d)(1) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program, the Secretary shall determine whether the current program acquisition unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report.

“(2) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program that is a procurement program, the Secretary concerned shall, in addition to the determination under paragraph (1), determine whether the current procurement unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report.

“(3) If the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2)—

Unit cost increase; notification to Congress.

“(A) the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the unit cost report that is the basis for such determination was submitted to him and shall include in such notification the date on which the determination was made; and

“(B) except as provided in subsection (e), additional funds may not be obligated in connection with such program—

Obligated funds, prohibition.

“(i) after the end of the 30-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 15 but less than 25 percent; or

“(ii) after the end of the 60-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 25 percent.

“(e)(1) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply in the case of a

determination of a 15 percent increase (as determined under subsection (d)) if the Secretary concerned submits to Congress, before the end of the 30-day period referred to in such subsection, a report containing the information described in subsection (g).

“(2) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply, in the case of a determination of a 25 percent increase (as determined under subsection (d))—

“(A) if the increase was due to termination or cancellation of the acquisition program; or

“(B) if the Secretary of Defense submits to Congress, before the end of the 60-day period referred to in such subsection—

“(i) a written certification stating that—

“(I) such acquisition program is essential to the national security;

“(II) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

“(III) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

“(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

“(ii) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report.

Waiver.

“(3) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program shall cease to apply in the case of a program to which it would otherwise apply if, after such prohibition has taken effect, the Committees on Armed Services of the Senate and House of Representatives waive the prohibition with respect to such program.

“(f) Any determination of a percentage increase under this section shall include expected inflation.

“(g)(1) Except as provided in paragraph (2), each report under subsection (e) with respect to a major defense acquisition program shall include the following:

“(A) The name of the major defense acquisition program.

“(B) The date of the preparation of the report.

“(C) The program phase as of the date of the preparation of the report.

“(D) The estimate of the program acquisition cost for the program as shown in the Selected Acquisition Report in which the program was first included, expressed in constant base-year dollars and in current dollars.

“(E) The current program acquisition cost in constant base-year dollars and in current dollars.

“(F) A statement of the reasons for any increase in program acquisition unit cost or procurement unit cost.

“(G) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for



which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

“(H) The fiscal year in which information on the program was first included in a Selected Acquisition Report (referred to in this paragraph as the ‘base year’) and the date of that Selected Acquisition Report in which information on the program was first included.

“(I) The date of the baseline Selected Acquisition Report.

“(J) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

“(K) The current change and the total change, in dollars and expressed as a percentage, in the procurement unit cost, stated both in constant base-year dollars and in current dollars.

“(L) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

“(M) The identities of the military and civilian officers responsible for program management and cost control of the program.

“(N) The action taken and proposed to be taken to control future cost growth of the program.

“(O) Any changes made in the performance or schedule milestones of the program and the extent to which such changes have contributed to the increase in program acquisition unit cost or procurement unit cost.

“(P) The following contract performance assessment information with respect to each major contract under the program:

Contract  
performance  
assessment  
information.

“(i) The name of the contractor.

“(ii) The phase that the contract is in at the time of the preparation of the report.

“(iii) The percentage of work under the contract that has been completed.

“(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

“(v) The percentage by which the contract is currently ahead of or behind schedule.

“(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.

“(2) If a program acquisition unit cost increase or a procurement unit cost increase for a major defense acquisition program that results in a report under this subsection is due to termination or cancellation of the entire program, only the information specified in clauses (A) through (F) of paragraph (1) and the percentage change in program acquisition unit cost or procurement unit cost that resulted in the report need be included in the report.”

Report  
exclusions.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 139 the following new items:

10 USC 139.

"139a. Oversight of cost growth in major programs: Selected Acquisition Reports.

"139b. Oversight of cost growth in major programs: unit cost reports."

Repeal.

(b) Section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note), is repealed.

Effective dates.  
10 USC 139a  
note.  
*Ante*, pp. 739,  
741.

(c) Sections 139a and 139b of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) shall take effect on January 1, 1983.

#### OVERSIGHT OF DEFENSE EXPENDITURES

Report to  
congressional  
committees.

SEC. 1108. (a) Concurrent with the submission of the budget to Congress for fiscal year 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report concerning the strength requested in such budget for civilian personnel for the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service. Such report shall state the number of such personnel at the end of fiscal year 1982, the number at the time the report is submitted, and the number requested in that budget and shall include a justification for the number requested. The report shall also include the opinion of the Secretary of Defense on whether the number requested is sufficient for those agencies to accomplish their functions with respect to the reduction of waste, fraud, and abuse in defense expenditures during the next fiscal year, particularly in light of any increases (in real terms) in the levels of appropriations requested in that budget for operations, procurement of new equipment, and for research, development, test, and evaluation.

Personnel data.

(b) The Secretary shall include in the report under subsection (a) information concerning the savings in defense expenditures achieved by the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service during fiscal year 1982, including a statement for each agency of the amount of such cost savings achieved as a percentage of the number of dollars spent by such agency during such year.

#### CONTINUATION OF TEST PROGRAM TO AUTHORIZE PRICE DIFFERENTIAL TO RELIEVE ECONOMIC DISLOCATIONS

10 USC 2392  
note.

SEC. 1109. (a) The Secretary of Defense should conduct a test program during fiscal year 1983 in accordance with this subsection to test the effect of exempting certain contracts of the Department of Defense from the provisions of section 2892 of title 10, United States Code, and paying a price differential under such contracts for the purpose of relieving economic dislocations. Under such test program, the Secretary of Defense may exempt from the provisions of such section any contract (other than a contract for the purchase of fuel) made by the Defense Logistics Agency during fiscal year 1983 if the contract is to be awarded to an individual or firm located in a Labor Surplus Area (as defined and identified by the Department of Labor) and if the Secretary determines—

Contract  
provisions.

(1) that the awarding of such contract will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that

the award of such contract will be made at reasonable cost to the United States;

(3) that the price differential to be paid under such contract will not exceed 2.2 percent; and

(4) the value of such contract, when added to the cumulative value of all other contracts awarded under the test program authorized by this section, will not exceed \$4,000,000,000.

(b) Not later than April 15, 1983, the President shall submit a report to Congress on the implementation and results to that date of the test program authorized by subsection (a). The report shall include an assessment of the costs and benefits of the test program.

Report to Congress.

#### PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

SEC. 1110. None of the funds appropriated pursuant to an authorization of appropriations in this or any other Act may be used for the purpose of consolidating any of the functions being performed on the date of the enactment of this Act by the Military Traffic Management Command of the Army, the Military Sealift Command of the Navy, or the Military Airlift Command of the Air Force with any function being performed on such date by either or both of the other commands.

10 USC 133 note.

#### PROHIBITION REGARDING CONTRACTS FOR THE PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

SEC. 1111. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to enter into any contract for the performance of firefighting functions or security-guard functions at any military installation or facility, except when such funds are for the express purpose of providing for the renewal of contracts in effect on the date of the enactment of this Act.

#### MODIFICATION OF REPORTS ON CONVERSION OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE

SEC. 1112. (a) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), is amended—

(1) by striking out “Department of Defense personnel” each time it appears and inserting in lieu thereof “Department of Defense civilian employees”; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

“(d) Except as provided in subsection (a)(1), subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 10 or fewer Department of Defense civilian employees.

“(e) In no case may any commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a)(2) the conversion of all or any part of such function to performance by a private contractor.

“(f) The provisions of this section shall not apply during war or a period of national emergency declared by the President or the Congress.”.

Effective date.  
10 USC 2304  
note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1113. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

50 USC app. 453.  
Registration  
requirements.

“(f)(1) Any person who is required under section 3 to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.

“(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

Statements of  
compliance  
verification  
methods.

“(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

Regulations.

“(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV for failure to meet the registration requirements of section 3 and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.”.

Hearing.

Effective date.  
50 USC app. 462  
note.  
20 USC 1070.

(b) The amendment made by subsection (a) shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning after June 30, 1983.

MILITARY RECRUITING INFORMATION

10 USC 503 note.

SEC. 1114. (a) The Congress finds that in order for Congress to carry out effectively its constitutional authority to raise and support armies, it is essential—

(1) that the Secretary of Defense obtain and compile directory information pertaining to students enrolled in secondary schools throughout the United States; and

(2) that such directory information be used only for military recruiting purposes and be retained in the case of each person

with respect to whom such information is obtained and compiled for a limited period of time.

(b)(1) Section 503 of title 10, United States Code, is amended—

(A) by inserting “(a)” before “The Secretary”; and

(B) by adding at the end thereof the following new subsection:

“(b)(1) The Secretary of Defense may collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade (or its equivalent) or higher and who is enrolled in a secondary school in the United States or its territories, possessions, or the Commonwealth of Puerto Rico.

“(2) The Secretary may make directory information collected and compiled under this subsection available to the armed forces for military recruiting purposes. Such information may not be disclosed for any other purpose.

“(3) Directory information pertaining to any person may not be maintained for more than 3 years after the date the information pertaining to such person is first collected and compiled under this subsection.

“(4) Directory information collected and compiled under this subsection shall be confidential, and a person who has had access to such information may not disclose such information except for the purposes described in paragraph (2).

“(5) The Secretary of Defense shall prescribe regulations to carry out this subsection. Regulations prescribed under this subsection shall be submitted to the Committees on Armed Services of the Senate and House of Representatives. Regulations prescribed by the Secretaries concerned to carry out this subsection shall be as uniform as practicable.

“(6) Nothing in this subsection shall be construed as requiring, or authorizing the Secretary of Defense to require, that any educational institution furnish directory information to the Secretary.

“(7) In this subsection, ‘directory information’ means, with respect to a student, the student’s name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational agency or institution attended by the student.”

(2) The heading for such section is amended to read as follows:

**“§ 503. Enlistments: recruiting campaigns; compilation of directory information”.**

(3) The item relating to such section in the table of sections at the beginning of chapter 31 of such title is amended to read as follows:

**“503. Enlistments: recruiting campaigns; compilation of directory information.”.**

(c)(1) Chapter 31 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**“§ 520a. Criminal history information for military recruiting purposes**

“(a) Each State and each unit of general local government of a State is requested to make available, upon request, to the Secretary concerned any criminal history information maintained by or available to such State or unit of general local government which pertains to any person who, within 90 days before the date on which such information was requested (1) has applied for enlistment in the armed forces, or (2) has applied, in connection with such person’s application for enlistment, for participation in a program of

Regulations.  
Submittal to  
congressional  
committees.

“Directory  
information.”

10 USC 520a.

"Criminal history information."

the armed forces which requires a determination of the trustworthiness of persons who participate in such program.

"(b) In this section, 'criminal history information' means the following information with respect to any juvenile or adult arrest, citation, or conviction of any person referred to in subsection (a):

"(1) The offense involved.

"(2) The age of the person with respect to whom such information pertains.

"(3) The dates of the arrest, citation, and conviction, if any.

"(4) The place the offense was alleged to have been committed, the place of the arrest, and the court to which the case was assigned.

"(5) The disposition of the case.

"(c) Criminal history information received under this section shall be confidential, and a person who has had access to any information received under this section may not disclose such information except to facilitate military recruiting.

Regulations.

Submittal to congressional committees.

"(d) The Secretaries concerned shall prescribe regulations, which shall be as uniform as practicable, to carry out this section. Regulations prescribed under this section shall be submitted to the Committees on Armed Services of the Senate and House of Representatives."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520a. Criminal history information for military recruiting purposes."

#### ACTIVE DUTY FOR TRAINING OF PERSONS ENLISTING IN A RESERVE COMPONENT OF THE ARMED FORCES

SEC. 1115. (a) The second sentence of section 511(d) of title 10, United States Code, is amended by striking out "180 days" and inserting in lieu thereof "270 days".

Effective date.  
10 USC 511 note.

(b) The amendment made by this section shall be effective with respect to persons enlisting in a reserve component of the Armed Forces after the end of the ninety-day period beginning on the date of the enactment of this Act.

#### TEMPORARY INCREASE IN NUMBER OF NAVY OFFICERS THAT MAY SERVE IN THE GRADE OF VICE ADMIRAL

10 USC 525 note.

SEC. 1116. During fiscal year 1983, the number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be on active duty in grades above rear admiral is increased by three. None of the additional officers in grades above rear admiral authorized by this section may be in the grade of admiral.

#### DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL

5 USC app.

SEC. 1117. (a) The Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting "the Department of Defense," after "Commerce," in section 2(1);

(2) by redesignating subparagraphs (C) through (M) of section 9(a)(1) as subparagraphs (D) through (N), respectively;

(3) by inserting after subparagraph (B) of section 9(a)(1) the following new subparagraph:

“(C) of the Department of Defense, the offices of that department referred to as the ‘Defense Audit Service’ and the ‘Office of Inspector General, Defense Logistics Agency’, and that portion of the office of that department referred to as the ‘Defense Investigative Service’ which has responsibility for the investigation of alleged criminal violations;”;

(4) by inserting “Defense,” after “Commerce,” in section 11(1); 5 USC app.  
and

(5) by inserting “Defense,” after “Commerce,” in section 11(2).

(b) Section 8 of the Inspector General Act of 1978 is amended to read as follows: 5 USC app.

“ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL  
OF THE DEPARTMENT OF DEFENSE

“SEC. 8. (a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense. 5 USC app.

“(b)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning— 5 USC app.  
Audits,  
investigations,  
or subpoenas.

“(A) sensitive operational plans;

“(B) intelligence matters;

“(C) counterintelligence matters;

“(D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or

“(E) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

“(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

Submittal to  
congressional  
committees.

“(4) The Secretary shall, within thirty days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees.

Statement of  
reasons;  
transmittal to  
congressional  
committees.

“(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

Duties and  
responsibilities.

“(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

"(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

"(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

"(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

"(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

"(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

"(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

"(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

"(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

"(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense.

"(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

"(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

"(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act."

(c) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is—

Violations.  
5 USC app.  
10 USC 801 *et*  
*seq.*

5 USC app.

5 USC app.

Report to  
congressional  
committees.

Report to  
congressional  
committees.

5 USC app.



“(A) specifically prohibited from disclosure by any other provision of law;

“(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

“(C) a part of an ongoing criminal investigation.

“(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

Disclosure to public.

“(3) Nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.”

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“Inspector General, Department of Defense.”

(e) In addition to the positions transferred to the Office of the Inspector General of the Department of Defense, pursuant to the amendments made by subsection (a) of this section, the Secretary of Defense shall transfer to the Office of Inspector General of the Department of Defense not less than one hundred additional audit positions. The Inspector General of the Department of Defense shall fill such positions with persons trained to perform contract audits.

Transfer of positions.  
5 USC app.

#### EXTENSION OF PERIOD FOR TRANSFER OF DEFENSE DEPENDENTS' EDUCATION SYSTEM TO DEPARTMENT OF EDUCATION

SEC. 1118. The first sentence of section 302(a) of the Department of Education Organization Act (20 U.S.C. 3442) is amended by striking out “three years after the effective date of this Act” and inserting in lieu thereof “May 4, 1984”.

#### OPEN ENROLLMENT PERIOD FOR RESERVES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1119. (a) Subsection (b) of section 212 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 383) is amended by striking out the period at the end and inserting in lieu thereof “, in the case of a member or former member of the uniformed services who on August 13, 1981, was entitled to retired or retainer pay, and the period beginning on October 1, 1982, and ending on September 30, 1983, in the case of a member or former member who on August 13, 1981, would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.”

10 USC 1448  
note.

(b) Subsection (e)(1) of such section is amended to read as follows:

“(1) The term ‘eligible member’ means a member or former member of the uniformed services who on August 13, 1981 (A) was entitled to retired or retainer pay, or (B) would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.”

10 USC 1331 *et seq.*

“Eligible members.”

## REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

22 USC 1928  
note.

SEC. 1120. Section 1006(c) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1120), is amended—

- (1) by inserting "(1)" after "(c)";
- (2) by striking out "March 1, 1982" and inserting in lieu thereof "March 1, 1983";
- (3) by redesignating clauses (1) through (5) as clauses (A) through (E), respectively;
- (4) by inserting "and their impact on mutual defense efforts" before the semicolon at the end of clause (A) (as so redesignated);
- (5) by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983";
- (6) by striking out "and" at the end of clause (D) (as so redesignated);
- (7) by striking out the period at the end of clause (E) (as so redesignated) and inserting in lieu thereof a semicolon and "and"; and
- (8) by adding after clause (E) the following:

"(F) a description of what additional actions the President plans to take should the efforts by the United States referred to in clauses (B) and (E) fail and, in those instances where such additional actions do not include consideration of the repositioning of elements of the Armed Forces of the United States, a detailed explanation as to why such repositioning is not being so considered.

Report to  
Congress.

"(2) If the report required by paragraph (1) as submitted to Congress is designated as having been classified, pursuant to Executive order, as requiring protection against unauthorized disclosure in the interest of national defense or foreign policy, then not later than thirty days after the submission of such report the Secretary shall submit to Congress a further report containing all the information in the initial report that does not require such protection."

## REPORT ON STANDARDIZATION OF NATO WEAPONS

SEC. 1121. Section 302(c) of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 402; 10 U.S.C. 2451 note), is amended by adding at the end thereof the following: "The Secretary shall also include in each such report—

"(1) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted;

"(2) a summary listing of the amount of funds appropriated for all such existing and planned programs for the fiscal year in which the report is submitted; and

"(3) a summary listing of the amount of funds requested, or proposed to be requested, for all such programs for each of the 2 fiscal years following the fiscal year for which the report is submitted.

Such report shall also include a description of each weapon system or other military equipment originally developed or procured in the

United States and that is being developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States during the fiscal year for which the report is submitted.”.

NATO DEFENSE INDUSTRIAL COOPERATION

SEC. 1122. (a) The Congress finds that—

22 USC 1928  
note.

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as “NATO”) allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purpose;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

## STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

SEC. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by February 1, 1983. Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983, on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

Report to  
congressional  
committees.

Report to  
congressional  
committees.

## NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

SEC. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical

weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

#### COOPERATIVE MILITARY AIRLIFT AGREEMENTS

SEC. 1125. (a) Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**“§ 2213. Cooperative military airlift agreements**

10 USC 2213.

“(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

“(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

10 USC 2208.

“(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation.

“(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

“(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

“(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such

agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

“(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

10 USC 2321 *et seq.*

“(d) Notwithstanding chapter 138 of this title, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.

Definitions.

“(e) In this section:

“(1) ‘Allied country’ means any of the following:

“(A) A country that is a member of the North Atlantic Treaty Organization.

“(B) Australia or New Zealand.

“(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

10 USC 2331.

“(2) ‘North Atlantic Treaty Organization subsidiary bodies’ has the meaning given to it by section 2331 of this title.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item: “2213. Cooperative military airlift agreements.”.

#### PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES

Contracts.

SEC. 1126. (a) The Secretary of a military department may, after the date of the enactment of this Act, enter into contracts for the purchase of administrative motor vehicles without regard to section 783 of Public Law 97-114.

95 Stat. 1591.

(b) None of the funds appropriated pursuant to authorizations in this Act may be used by the Secretary of a military department to make a contract or agreement for the purchase of administrative motor vehicles that are manufactured outside the United States or Canada unless the contractor was selected through competitive bidding without a differential in favor of foreign manufacturers. This subsection does not apply to contracts for amounts less than \$50,000 or to any contract or agreement in effect on the date of the enactment of this Act with the Federal Republic of Germany, the United Kingdom, or Italy, so long as the vehicles procured under such contract or agreement are standardized or interoperable with the vehicles of the host country.

Contract or agreement, funding.

#### RESTRICTION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 1127. (a) Chapter 633 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 7309.

“§ 7309. Restriction on construction of naval vessels in foreign shipyards

“(a) Except as provided in subsection (b), no naval vessel, and no major component of the hull or superstructure of a naval vessel, may be constructed in a foreign shipyard.

“(b) The President may authorize exceptions to the prohibition in subsection (a) when he determines that it is in the national security interest of the United States to do so. The President shall transmit

Notification to Congress.

notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“7309. Restriction on construction of naval vessels in foreign shipyards.”.

**PRIOR NOTIFICATION TO CONGRESS ON FOREIGN SOLE-SOURCE  
PROCUREMENTS**

**SEC. 1128.** Subject to the provisions of chapter 138 of title 10, United States Code (relating to North Atlantic Treaty Organization mutual support), none of the funds authorized to be appropriated in this Act may be used to enter into a prime contract for the purchase of a major article of equipment essential to the national defense from a manufacturer outside the United States that makes the United States dependent on that manufacturer as a sole source unless the Secretary of Defense has notified the Committees on Armed Services and Appropriations of the Senate and House of Representatives, in writing, of such proposed contract.

10 USC 2321 *et*  
*seq.*

**PURCHASE OF CHEMICAL WARFARE PROTECTIVE CLOTHING AND ITEMS  
CONTAINING SPECIALTY METALS FROM FOREIGN SOURCES**

**SEC. 1129.** Section 723 of the Department of Defense Appropriations Act, 1982 (Public Law 97-114; 95 Stat. 1582) is amended by inserting after the first colon the following: “*Provided*, That nothing in this section shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions if such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or if such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within the North Atlantic Treaty Organization (NATO) so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and section 814 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 2351 note).”.

**RECOGNITION OF NATIONAL GUARD AND RESERVE FORCES**

**SEC. 1130.** (a) The Congress finds that—

(1) the National Guard and Reserve Forces of the United States are an integral part of the total force policy of the United States for national defense and need to be ready to respond, on short notice, to augment the active military forces in time of national emergency;

(2) attracting and retaining sufficient numbers of qualified persons to serve in the Guard and Reserve is a difficult challenge during a period in which authority to induct persons for training and service in the Armed Forces is not provided by law; and

38 USC 2021  
note.

(3) the support of employers and supervisors in granting employees a leave of absence from their jobs to participate in military training without detriment to earned vacation time, promotions, and job benefits is essential to the maintenance of a strong Guard and Reserve force.

(b)(1) It is, therefore, the sense of Congress that the citizen-military volunteers who serve the Nation as members of the National Guard and Reserve require and deserve public recognition of the essential role they play in the national defense, and particularly require and deserve the support and cooperation of their civilian employers, in order to be fully ready to respond to national emergencies.

(2) The Congress recognizes, and requests all citizens to recognize, the vital need for a trained, ready National Guard and Reserve in the national defense posture of the United States and urges and requests employers and supervisors of employees who are members of the National Guard or Reserve to abide by the provisions of chapter 43 of title 38, United States Code, by granting a leave of absence for military training, exclusive of earned vacation, to employees who are members of the Guard and Reserve and by providing such employees equal consideration for job benefits and promotions as all other employees.

38 USC 2021 *et seq.*

#### REPORT ON VISTA 1999 TASK FORCE REPORT

Study and evaluation.

SEC. 1131. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of the report entitled "VISTA 1999, A Long-Range Look at the Future of the Army and Air National Guard" submitted by the Chairman of the VISTA 1999 task force to the Chief of the National Guard Bureau on March 8, 1982. The study and evaluation shall include the following:

(1) A detailed evaluation of the findings, conclusions, and recommendations of the "VISTA 1999" study.

(2) The views of the Chief of the National Guard Bureau on the "VISTA 1999" study.

(3) Any plans and recommendations for implementation of the recommendations of the "VISTA 1999" study.

Report to congressional committees.

(b) The Secretary of Defense shall submit a report of the study and evaluation required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives no later than February 1, 1983.

#### MILITARY PERSONNEL CLAIM RESULTING FROM IRANIAN CRISIS

SEC. 1132. (a) The head of the military department having jurisdiction over Colonel Thomas E. Schaefer, United States Air Force, a member of the uniformed services who was held as a hostage in the Islamic Republic of Iran on or after November 4, 1979, and before January 22, 1981, may settle and pay an amount determined under subsection (b) for any claim against the United States made by such member for the loss of personal property in the Islamic Republic of Iran if the head of the military department determines that—

(1) the loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees;

(2) the loss was incurred on or after December 31, 1978, and before January 22, 1981;



(3) the property was owned and possessed in the Islamic Republic of Iran by the claimant and the ownership and possession of such property was appropriate and reasonable considering the official representational duties and responsibilities of the claimant; and

(4) the claimant had no reasonable opportunity to remove the property from the place where it was lost or could not reasonably have been expected to remove the property from such place before it was lost.

(b) The amount payable under subsection (a) shall be equal to the lesser of—

(1) the excess (if any) of the full replacement cost of the lost personal property over the total amount of compensation for the loss available in such case under section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) and from all other sources; or

(2) \$75,000.

(c) A claim may be allowed under this section if it is presented in writing within one year after the date of enactment of this Act.

(d) The provisions of section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) that are not inconsistent with any provision of this section shall apply in the administration of this section.

(e) For the purposes of this section, the terms "agency", "uniformed services", "settle", and "military department" have the same meanings provided in section 2 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240).

Definitions.

#### USE OF CERTAIN GIFTS TO THE UNITED STATES MILITARY ACADEMY

SEC. 1133. (a) Under regulations prescribed by the Secretary of the Army, the Superintendent of the United States Military Academy may (without regard to section 2601 of title 10, United States Code) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of \$20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the United States Military Academy or any entity thereof. The Secretary of the Army may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.

10 USC 4334  
note.

(b) This section applies with respect to any gift, devise, or bequest made on or after the date of the enactment of this Act for the purpose described in subsection (a) and applies to any such gift, devise, or bequest, or devise made before the date of the enactment of this Act with respect to which the Secretary of the Army has approved application of this section rather than section 2601 of title 10, United States Code.

#### DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 1134. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

Approved September 8, 1982.

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**LEGISLATIVE HISTORY—S. 2248 (H.R. 6030):**

**HOUSE REPORTS:** No. 97-482 accompanying H.R. 6030 (Comm. on Armed Services) and No. 97-749 (Comm. of Conference).

**SENATE REPORT** No. 97-330 (Comm. on Armed Services).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

May 3-6, 11-13, considered and passed Senate.

July 19-22, 27-29, H.R. 6030, considered and passed House; S. 2248, amended, passed in lieu.

Aug. 17, Senate agreed to conference report.

Aug. 18, House agreed to conference report.

Public Law 97-253  
97th Congress

An Act

To provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress).

Sept. 8, 1982  
[H.R. 6955]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Omnibus Budget  
Reconciliation  
Act of 1982.

SHORT TITLE

SECTION 1. This Act may be cited as the “Omnibus Budget Reconciliation Act of 1982”.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED  
PROGRAMS

Subtitle A—Dairy Price Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

95 Stat. 369.  
7 USC 1446.

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins “Such price support shall be provided”;

(2) adding a new subsection (d) as follows:

“(d) Notwithstanding any other provision of law—

“(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than \$13.10 per hundredweight of milk containing 3.67 per centum milkfat.

“(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines \$13.10 represented as of October 1, 1983.

“(C) The price of milk shall be supported through the purchase of milk and the products of milk.

“(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

“(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a

- deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorized by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commercial marketings from such marketings during the base period. For the purpose of this paragraph, the based period shall be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.
- Based period.
- Refunds. “(B) Refunds under this paragraph shall be based on reductions in commercial marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.
- Net price support purchases. “(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.
- Overpayment. “(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.
- “ (E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.
- “ (4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed

by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

7 USC 601 note.  
7 USC 601 note.  
Records and  
reports.

"(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

Investigations.

"(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

Civil action.

"(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which

Violations.

shall accrue to the United States and may be recovered in a civil suit brought by the United States.

“(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, remedies otherwise provided at law or in equity.

“(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

“(A) administrators of Federal milk marketing orders;

16 USC 590h.

“(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act;

or

“(C) administrators of State milk marketing programs.”.

#### Subtitle B—Donation of Dairy Products

SEC. 110. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end thereof the following: “Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and non-profit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.”.

42 USC 3001  
note.

7 USC 1691 note.

#### Subtitle C—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

##### ADVANCE DEFICIENCY PAYMENTS

SEC. 120. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107B (7 U.S.C. 1445b-1) the following new section:

##### “ADVANCE PAYMENTS

7 USC 1445b-2.

“SEC. 107C. (a)(1) Effective with respect to the 1982 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall make available to producers who participate in an acreage limitation program established for wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, advance deficiency payments in accordance with this section (other than subsection (b)) if the Secretary determines that deficiency payments likely will be made under this Act.

7 USC 1445b-1,  
1444d, 1444,  
1441.

Terms and  
conditions.

“(2) Advance deficiency payments under paragraph (1) shall be made to producers under the following terms and conditions:

“(A) Such payments shall be made as soon as practicable after October 1, 1982.

“(B) Such payments shall be made in an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 70 per centum of the projected payment rate, as determined by the Secretary. Notwithstanding the preceding sentence, in any case in which a producer has received disaster payments for wheat, feed grains, upland cotton, or rice under section 107B(b)(2), 105B(b)(2), 103(g)(4), or 101(i)(3), respectively, the Secretary may make such adjustment in the advance deficiency payments made under this subsection as the Secretary determines appropriate.

7 USC 1445 b-1,  
1444d, 1444,  
1441.

“(b)(1) Effective with respect to the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice, if the Secretary establishes an acreage limitation or acreage set-aside program for a crop of wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

“(A) for the 1983 crop of such commodity, shall make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program; and

“(B) for the 1984 and 1985 crops of such commodities, may make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program.

“(2) Advance deficiency payments under this subsection shall be made to producers under the following terms and conditions:

“(A) Such payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such program, but in no case prior to October 1, 1982.

“(B) Such payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary.

“(c) Advance deficiency payments under this section shall be made to producers under the following terms and conditions:

“(1) In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

“(2) If the Secretary determines under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made

under this section, the producers who received such advance payments shall refund such payments.

“(3) Any refund required under paragraph (1) or (2) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

“(4) If a producer fails to comply with the requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

“(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

“(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

“(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.”.

#### 1983 WHEAT LOANS

95 Stat. 1221.

SEC. 121. Section 107B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(a)) is amended by adding at the end thereof the following: “Notwithstanding the foregoing provisions of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than \$3.65 per bushel.”.

#### 1983 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 122. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) “Notwithstanding any other provision of this section, the” and inserting in lieu thereof “Notwithstanding any other provision of law—

“(A) Except as provided in subparagraph (B) of this paragraph, the”;

(2) adding at the end of paragraph (1) the following new subparagraph:

“(B) Notwithstanding any previous announcement to the contrary, for the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.”;

(3) in paragraph (2), inserting immediately after the fifth sentence the following: “Notwithstanding any other provision of



this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.”; and

(4) inserting at the end of paragraph (5) the following: “Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 5 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate shall be established by the Secretary at not less than \$3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.”.

#### 1983 FEED GRAIN LOANS

SEC. 123. Section 105B(a)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)(1)) is amended by inserting at the end thereof the following: “Notwithstanding the foregoing provisions of this paragraph, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than \$2.65 per bushel.”.

95 Stat. 1227.

#### 1983 FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 124. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) “Notwithstanding any other provision of this section, the” and inserting in lieu thereof “Notwithstanding any other provision of law—

“(A) Except as provided in subparagraph (B) of this paragraph, the”;

(2) adding at the end of paragraph (1) the following new subparagraph:

“(B) For the 1983 crop of feed grains, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 15 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.”;

(3) in paragraph (2), inserting immediately after the sixth sentence the following: “Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.”; and

(4) inserting at the end of paragraph (5) the following: “Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of feed grains under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to 5 per centum of the feed grain acreage base in addition to the reduction required under paragraph (2) or (3), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The diversion payment rate shall be established by the Secretary at not less than \$1.50 per bushel for corn, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall

repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.”.

1983 RICE ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 125. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

95 Stat. 1242.

(1) striking out in the first sentence of subparagraph (A) “Notwithstanding any other provision of this subsection, the” and inserting in lieu thereof “Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the”;

(2) inserting immediately after the second sentence of subparagraph (A) the following: “For the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.”;

(3) inserting immediately after the ninth sentence of subparagraph (A) (as amended by paragraph (2) of this section) the following: “Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.”; and

(4) inserting at the end of subparagraph (B) the following: “Notwithstanding the foregoing provisions of this subparagraph, the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 per centum of the rice acreage base in addition to the reduction required under subparagraph (A), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than \$3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983

crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.<sup>7</sup>

#### Subtitle D—Agricultural Export Promotion

7 USC 612c note.

SEC. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than \$175,000,000 nor more than \$190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

Food Stamp Act  
Amendments of  
1982.

#### Subtitle E—Food Stamp Act Amendments of 1982

##### SHORT TITLE

7 USC 2011 note.

SEC. 140. This subtitle may be cited as the “Food Stamp Act Amendments of 1982”.

##### REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 141. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

##### HOUSEHOLD DEFINITION

SEC. 142. Section 3(i) (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence—

(A) inserting “, or siblings,” after “children”; and

(B) inserting “, or siblings,” after “the parents”; and

(2) inserting after the first sentence the following new sentence: “Notwithstanding clause (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without

regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.”.

7 USC 2014.

## ROUNDING DOWN

SEC. 143. (a) The second sentence of section 3(o) (7 U.S.C. 2012(o)) (as amended by section 144 of this Act) is amended by—

95 Stat. 1282.

(1) in clause (1), inserting “(based on the unrounded cost of such diet)” after “adjustments”; and

(2) in clauses (6), (7), and (8), striking out “nearest dollar increment” each place it appears and inserting in lieu thereof “nearest lower dollar increment for each household size”.

(b) section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out “nearest \$5 increment” each place it appears and inserting in lieu thereof “nearest lower dollar increment”; and

(2) in the proviso of clause (2) of the fourth sentence, striking out “nearest \$5 increment” each place it appears and inserting in lieu thereof “nearest lower dollar increment”.

(c) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting “lower” after “nearest”.

## THRIFTY FOOD PLAN ADJUSTMENTS

SEC. 144. The second sentence of section 3(o) (7 U.S.C. 2012(o)) is amended by striking out “(6)” and all that follows through “twelve months ending the preceding June 30” and inserting in lieu thereof the following: “(6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, and (8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest dollar increment”.

## DISABLED VETERANS AND SURVIVORS

SEC. 145. (a) section 3 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

“(r) ‘Elderly or disabled member’ means a member of a household who—

“Elderly or disabled member.”

“(1) is sixty years of age or older;

“(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

“(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

42 USC 401, 1201, 1351.

“(4) is a veteran who—

“(A) has a service-connected disability which is rated as total under title 38, United States Code; or

“(B) is considered in need of regular aid and attendance or permanently housebound under such title;

“(5) is a surviving spouse of a veteran and—

“(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United States Code; or

“(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

“(6) is a child of a veteran and—

“(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

“(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).”

(b) The first sentence of section 3(i) (7 U.S.C. 2012(i)) is amended by striking out “sixty” and all that follows through the end of the sentence and inserting in lieu thereof “an elderly or disabled member.”

7 USC 2014.

(c) Section 5(c)(2) (as amended by section 146(a) of this Act) is amended by striking out “a member who is” and all that follows through “(42 U.S.C. 301 et seq.)” and inserting in lieu thereof “an elderly or disabled member”.

(d) Section 5(e) (7 U.S.C. 2014(e)) (as amended by section 146(b) of this Act) is amended by—

(1) in the first sentence, striking out “a member who is” and all that follows through “(42 U.S.C. 301 et seq.)” and inserting in lieu thereof “an elderly or disabled member”;

(2) in the fourth sentence, striking out “a member” and all that follows through “titles I, II, X, XIV, and XVI of the Social Security Act” and inserting in lieu thereof “an elderly or disabled member”; and

(3) in the last sentence—

(A) in the matter preceding subclause (A), striking out “a member” and all that follows through “titles I, II, X, XIV, and XVI of the Social Security Act” and inserting in lieu thereof “an elderly or disabled member”; and

(B) in subclause (A), striking out “household members” and all that follows through “titles I, II, X, XIV, and XVI of the Social Security Act” and inserting in lieu thereof “elderly or disabled members”.

(e) The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out “sixty” and all that follows through “titles I, II, X, XIV, and XVI of the Social Security Act” and inserting in lieu thereof “elderly or disabled members”.

#### INCOME STANDARDS OF ELIGIBILITY

SEC. 146. (a) Subsection (c) of section 5 (7 U.S.C. 2014(c)) is amended to read as follows:

“(c) The income standards of eligibility shall provide that a household shall be ineligible to participate in the food stamp program if—

“(1) the household’s income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

95 Stat. 511.

“(2) in the case of a household that does not include a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), the household’s income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum.

42 USC 401, 1201, 1351.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.”

(b) The first sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out “households described in subsection (c)(1)” and inserting in lieu thereof “households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.)”.

#### COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 147. Section 5(d) (7 U.S.C. 2014(d)) is amended by—

95 Stat. 1283.

(1) striking out “and” at the end of clause (10); and

(2) adding before the period at the end thereof the following: “, and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective”.

42 USC 1381.

#### ADJUSTMENT OF DEDUCTIONS

SEC. 148. Section 5(e) (7 U.S.C. 2014(e)) is amended by—

95 Stat. 359.

(1) in clause (1) of the second sentence, striking out “July 1, 1983” and inserting in lieu thereof “October 1, 1983”; and

(2) in subclause (i) of the proviso of clause (2) of the fourth sentence, striking out “July 1, 1983” and inserting in lieu thereof “October 1, 1983”.

#### STANDARD UTILITY ALLOWANCES

SEC. 149. (a) Section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following new sentences: “In computing the excess shelter expense deduction under clause (2) of the

preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.”.

(b) Subclause (B) of the last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out “preceding sentence” and inserting in lieu thereof “fourth sentence of this subsection”.

#### MIGRANT FARMWORKERS

95 Stat. 360.

SEC. 150. The last sentence of section 5(f)(4) (7 U.S.C. 2014(f)(4)) is amended by inserting after “subsection” the following: “(except the provisions of paragraph (2)(A))”.

#### FINANCIAL RESOURCES

SEC. 151. The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

- (1) striking out “June 1, 1977” and inserting in lieu thereof “June 1, 1982”;
- (2) striking out “and” after “vacation purposes,”; and
- (3) inserting after “\$4,500,” the following: “and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts),”.

#### STUDIES

SEC. 152. (a) The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

- (1) striking out “(1)”;

- (2) striking out “, and (2)” and all that follows through the end of the sentence and inserting in lieu thereof a period.

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Subsections (d) and (e) of section 17 (7 U.S.C. 2026 (d) and (e)) are repealed.

#### CATEGORICAL ELIGIBILITY

SEC. 153. Section 5 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

“(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility



described in subsection (c)(2) to have satisfied the resource limitations prescribed under subsection (g).”.

#### MONTHLY REPORTING

SEC. 154. The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by—

- (1) inserting “adult” after “which all”; and
- (2) inserting before the period at the end thereof the following: “, except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection”.

#### PERIODIC REPORT FORMS

SEC. 155. The last sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out “, on a form designed or approved by the Secretary,”.

#### REPORTING REQUIREMENTS

SEC. 156. Section 6(c) (7 U.S.C. 2015(c)) is amended by adding at the end thereof the following new paragraph:

- “(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.”.

#### JOB SEARCH

SEC. 157. Section 6(d)(1)(ii) (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting before the semicolon at the end thereof the following: “, which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application”.

#### VOLUNTARILY QUITTING A JOB

SEC. 158. (a) The proviso of section 6(d)(1)(iii) (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out “sixty days from the time of the voluntary quit” and inserting in lieu thereof “ninety days”.

(b) Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: “An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.”.

## PARENTS AND CARETAKERS OF CHILDREN

SEC. 159. Clause (C) of section 6(d)(2) (7 U.S.C. 2015(d)(2)(C)) is repealed.

## JOINT EMPLOYMENT REGULATIONS

SEC. 160. Paragraph (3) of section 6(d) (7 U.S.C. 2015(d)(3)) is repealed.

## COLLEGE STUDENTS

SEC. 161. Section 6(e) (7 U.S.C. 2015(e)) is amended by striking out "or (B)" and all that follows through "or (C)" and inserting in lieu thereof "; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E)".

## ALTERNATIVE ISSUANCE SYSTEM

SEC. 162. Section 7 (7 U.S.C. 2016) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary may require a State agency—

"(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

"(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program."

## INITIAL ALLOTMENTS

SEC. 163. (a) The first sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: "; except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than \$10".

(b) Clause (2) of the last sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days".

## NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 164. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the

duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty." 7 USC 2014.

#### HOUSE-TO-HOUSE TRADE ROUTES

SEC. 165. Section 9 (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection: 95 Stat. 1285.

"(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households."

#### APPROVAL OF STATE PLAN OF OPERATION

SEC. 166. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled."

#### POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 167. (a) The last sentence of section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for" 95 Stat. 1286.

(b) Paragraph (13) of section 11(e) (7 U.S.C. 2020(e)(13)) is repealed.

#### AUTHORIZED REPRESENTATIVES

SEC. 168. Section 11(e)(7) (7 U.S.C. 2020(e)(7)) is amended by—

(1) striking out "any" each place it appears and inserting in lieu thereof "an"; and

(2) inserting before the semicolon at the end thereof the following: ", except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph".

#### DISCLOSURE OF INFORMATION

SEC. 169. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended by striking out "or the regulations issued pursuant to this Act" and inserting in lieu thereof ", regulations issued pursuant to this Act, Federal assistance programs, or federally assisted State programs".

## EXPEDITED COUPON ISSUANCE

SEC. 170. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

“(9) that the State agency shall—

“(A) provide coupons no later than five days after the date of application to any household which—

“(i)(I) has gross income that is less than \$150 per month; or

“(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

“(ii) has liquid resources that do not exceed \$100; and

“(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household;”.

## PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 171. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end thereof the following: “, except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household’s benefits, the State agency may act immediately to reduce or terminate the household’s benefits and may provide notice of its action to the household as late as the date on which the action becomes effective”.

## DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

SEC. 172. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out “and” at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof “; and”; and

(3) adding at the end thereof the following new paragraph:

“(22) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State.”.

## CERTIFICATION SYSTEMS

SEC. 173. Section 11(i) (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following new sentence: “Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.”.

## CASHED-OUT PROGRAMS

SEC. 174. Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

“(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1).”.

## AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 175. Section 12 (7 U.S.C. 2021) is amended by—

- (1) inserting “(a)” after the section designation;
- (2) in the first sentence, striking out “\$5,000” and inserting in lieu thereof “\$10,000”;
- (3) striking out the second sentence and inserting in lieu thereof the following new subsection:  
“(b) Disqualification under subsection (a) shall be—  
“(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;  
“(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification; and  
“(3) permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern.”; and  
(4) designating the last sentence as subsection (c).

## BONDS

SEC. 176. (a) Section 12 (7 U.S.C. 2021) (as amended by section 175 of this Act) is amended by adding at the end thereof the following new subsection:

“(d) As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act. Such store or concern may obtain a hearing on such forfeiture pursuant to section 14.”.

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting “or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act,” after “section 12 of this Act,”.

95 Stat. 1286.

## ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCES

SEC. 177. (a) Section 13(b)(1) (7 U.S.C. 2022(b)(1)) is amended by—

- (1) inserting “(A)” after the paragraph designation; and
- (2) adding at the end thereof the following new subparagraph:  
“(B) State agencies may collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection.”.

95 Stat. 363.

7 USC 2015.

(b) Section 13(b)(2) (7 U.S.C. 2022(b)(2)) is amended by—

- (1) inserting “(A)” after the paragraph designation; and
- (2) adding at the end thereof the following new subparagraph:

“(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.”.

#### CLAIMS COLLECTION PROCEDURE

SEC. 178. The second sentence of section 13(b)(1)(A) (as amended by section 177(a) of this Act) is amended by inserting “within thirty days of a demand for an election” after “election”.

#### COST-SHARING FOR COLLECTION OF OVERISSUANCES

95 Stat. 362, 363.

SEC. 179. The first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended by inserting before the period at the end thereof the following: “, except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency”.

#### ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

“(c) The Secretary is authorized to adjust a State agency’s federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

“(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

“(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.”;

(2) striking out subsections (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) the following new subsection:

“(d)(1) As used in this subsection, the term ‘payment error rate’ means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

“(A) issued to households which fail to meet basic program eligibility requirements; or

“(B) overissued to eligible households.

“(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency’s payment error rate exceeds—

“(i) 9 per centum for fiscal year 1983,

“(ii) 7 per centum for fiscal year 1984, or

“(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency’s federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per

centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

“(B) The Secretary may not reduce a State agency’s federally funded share of administrative costs pursuant to subparagraph (A)—

“(i) on the basis of the State agency’s payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency’s payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency’s payment error rate for such period and 5 per centum; or

“(ii) on the basis of the State agency’s payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency’s payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency’s payment error rate for such period and 5 per centum.

“(3)(A) The Secretary shall reduce a State agency’s federally funded share of administrative costs, except as provided in subparagraph (B), by—

“(i) 5 per centum for each per centum or fraction thereof that the State agency’s payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

“(ii) if the State agency’s payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency’s payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

“(B) The Secretary may not reduce a State agency’s federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

“(i) the per centum by which the State agency’s payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

“(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

“(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency’s federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

“(5) If the Secretary reduces a State agency’s federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.”.

Administrative  
and judicial  
review.

7 USC 2023.

(b)(1) Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by—

(A) striking out “subsections (h) and (i) of section 16” and inserting in lieu thereof “section 16(e)”; and

(B) striking out “quality control program” and inserting in lieu thereof “error rate reduction system”.

(2) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (c) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

#### EMPLOYMENT REQUIREMENT PILOT PROJECT

95 Stat. 1290.

SEC. 181. Section 17 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"Qualification period."

"(g)(1) As used in this subsection, the term 'qualification period' means a period of time immediately preceding—

"(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

"(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

"(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

"(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program established under section 20, during a qualification period of—

"(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

"(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

"(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

"(A) is under eighteen or over fifty-nine years of age;

"(B) is certified by a physician as physically or mentally unfit for employment;

"(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

"(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

7 USC 2015.

"(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

"(F) is a member of any other group described by the Secretary.

Waiver.

"(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

"(A) has an unemployment rate of over 10 per centum; or

"(B) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.



“(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

“(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

“(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.”.

#### BENEFIT IMPACT STUDY

SEC. 182. Section 17 (7 U.S.C. 2026) (as amended by section 181 of this Act) is amended by adding at the end thereof the following new subsection:

“(h) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.”.

95 Stat. 358.  
95 Stat. 1282.  
*Ante*, p. 772.

Report to  
congressional  
committees.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 183. The first sentence of section 18(a)(1) (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out “and” after “September 30, 1981;”, and

(2) inserting before the period at the end thereof the following: “; not in excess of \$12,874,000,000 for the fiscal year ending September 30, 1983; not in excess of \$13,145,000,000 for the fiscal year ending September 30, 1984; and not in excess of \$13,933,000,000 for the fiscal year ending September 30, 1985”.

95 Stat. 102.

#### PUERTO RICO BLOCK GRANT

SEC. 184. (a) Section 19(a)(1)(A) (7 U.S.C. 2028(a)(1)(A)) is amended by inserting “noncash” after “expenditures for”.

95 Stat. 364.

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983.

7 USC 2028 note.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include an analysis of the impact on both the nutritional status of residents of the Commonwealth and the economy of the Commonwealth. The Secretary shall submit a report of the findings of such

Study.

Report to  
congressional  
committees.

study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

#### SIMILAR WORKFARE PROGRAMS

- 95 Stat. 1291. SEC. 185. Section 20(a) (7 U.S.C. 2029(a)) is amended by—
- (1) inserting “(1)” after the subsection designation; and
  - (2) adding at the end thereof the following new paragraph:
- Guidelines. “(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.
- “(B) A political subdivision may comply with the requirements of this section by operating—
- “(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or
  - “(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.”.

#### WIN PARTICIPANTS

- 95 Stat. 1291. SEC. 186. Clause (4) of section 20(b) (7 U.S.C. 2029(b)) is amended by striking out “subject to and currently involved” and inserting in lieu thereof “at the option of the operating agency, subject to and currently actively and satisfactorily participating”.

#### HOURS OF WORKFARE

SEC. 187. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out “either” and all that follows through the end of the sentence and inserting in lieu thereof: “, when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.”.

#### REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

- SEC. 188. Section 20(g) (7 U.S.C. 2029(g)) is amended by—
- (1) redesignating paragraph (2) as paragraph (3), and
  - (2) inserting after paragraph (1) the following new paragraph:
- “(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.
- Definition. “(B) For purposes of subparagraph (A), the term ‘funds saved from employment related to a workfare program operated under this section’ means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

“(i) while such members are participating for the first time in a workfare program operated under this section; or  
 “(ii) in the thirty-day period beginning on the date such first participation is terminated.”.

#### TECHNICAL CORRECTIONS

SEC. 189. (a) Section 5(f)(2)(A) (as amended by section 107(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 360)) is amended by striking out “propsective” and inserting in lieu thereof “prospective”. 7 USC 2014.

(b)(1) Clause (2) of section 6(g) (7 U.S.C. 2015(g)) is amended by striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”.

(2) Section 11 (7 U.S.C. 2020) is amended by—

(A) in subsection (i), striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”, and

(B) in subsection (j), striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”.

(3) The second sentence of section 16(e) (as redesignated by section 180(a)(2) of this Act) is amended by striking out “Secretary of Health, Education, and Welfare” each place it appears and inserting in lieu thereof “Secretary of Health and Human Services”.

(c) Section 16(f) (as redesignated by section 180(a)(2) of this Act) is amended by striking out “; and” and inserting in lieu thereof a period.

#### CONFORMING AMENDMENTS

SEC. 190. (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as amended by section 159 of this Act) is amended by redesignating clauses (D) through (F) as clauses (C) through (E), respectively.

(b) Section 6(d) (7 U.S.C. 2015(d)) (as amended by section 160 of this Act) is amended by redesignating paragraph (4) as paragraph (3).

(c)(1) Section 11(e) (17 U.S.C. 2020(e)) (as amended by sections 167(b) and 172 of this Act) is amended by redesignating paragraphs (14) through (22) as paragraphs (13) through (21), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out “section 11(e)(21)” and inserting in lieu thereof “section 11(e)(20)”.

(d) Section 17 (7 U.S.C. 2026) (as amended by sections 152(c), 181, and 182 of this Act) is amended by redesignating subsections (f) through (h) as subsections (d) through (f), respectively.

#### DISTRIBUTION OF SURPLUS COMMODITIES

SEC. 191. (a) The Congress finds that—

7 USC 1624 note.

(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more

critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

(b) It is the sense of the Congress that—

(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.

#### EFFECTIVE DATES OF PRIOR AMENDMENTS TO THE FOOD STAMP ACT OF 1977

7 USC 2012 note.  
95 Stat. 366.  
95 Stat. 358-363.

SEC. 192. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101 through 114 of such Act, other than sections 107(b) and 108(c) of such Act, shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 117 of such Act.

95 Stat. 1294.  
95 Stat.  
1282-1291.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 1338 of such Act.

## EFFECTIVE DATES

SEC. 193. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle. 7 USC 2012 note.

(b) Sections 180 and 188 shall take effect on October 1, 1982.

## TITLE II—BANKING

## TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by— 12 USC 1709.

(1) inserting after “150 per centum of such median price” in the first sentence of paragraph (2) the following: “: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”; and

(2) inserting after “cost of acquisition” in paragraph (9) the following: “(excluding the mortgage insurance premium paid at the time the mortgage is insured)”.

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: “: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations”.

(c) Section 213(b)(2) of such Act is amended by inserting after “exceeded by not to exceed 90 per centum in such an area” the following: “: *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”. 12 USC 1715e.

(d) Section 221(d) of such Act is amended by— 12 USC 1715l.

(1) inserting after “in any geographical area where he finds that cost levels so require” in paragraph (2)(A) the following: “: *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”;

(2) inserting after “of its acquisition cost” in paragraph (2)(B)(i)(2) the following: “(excluding the mortgage insurance premium paid at the time the mortgage is insured)”;

(3) striking out “mortgage insurance premium,” in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after “one-family house price in the area, as determined by the Secretary” in clause (A) of the third sentence thereof the following: “: *Provided*, That the foregoing maximum mortgage amounts may be increased 12 USC 1715y.

by the amount of the mortgage insurance premium paid at the time the mortgage is insured”.

12 USC 1715z.

(f) Section 235(i) of such Act is amended by—

(1) inserting after “respectively” in paragraph (3)(B) the following: “: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”;

(2) inserting after “respectively” in paragraph (3)(C) the following: “: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”;

(3) inserting after “so require” in paragraph (3)(D) the following: “: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured”; and

(4) inserting after “acquisition” in paragraph (3)(E) the following: “(excluding the mortgage insurance premium paid at the time the mortgage is insured)”.

12 USC 1709  
note.

(g) The amendments made by this section, other than by subsection (b), may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.

#### BUREAU OF THE MINT

Appropriation  
authorization.

SEC. 202. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: “There are authorized to be appropriated for fiscal year 1983 not to exceed \$50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.”.

### TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

#### Subtitle A—Civil Service Programs

##### COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1983, 1984, AND 1985

5 USC 8340 note.

SEC. 301. (a)(1) Except as provided in paragraph (3), the cost-of-living increase under any Government retirement system in annuity or retired or retainer pay of any early retiree taking effect in each of fiscal years 1983, 1984, and 1985, shall be equal to one-half of the assumed increase in the price index for that year.

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if—

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(C) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(3) If the percentage increase in the price index for fiscal year 1983, 1984, or 1985 (as determined by the Office of Personnel Management on the basis of the calendar year ending in such year) exceeds the assumed increase in the price index for that year, then the increase in the annuity or retired or retainer pay of an early retiree under paragraph (1) taking effect in that fiscal year shall be equal to—

(A) one-half of the assumed increase in the price index for that year, plus

(B) the amount by which the percentage increase in the price index exceeds the assumed price index increase.

(4) As used in this subsection—

Definitions.

(A) the term “price index” has the meaning given such term in section 8331(15) of title 5, United States Code; and

(B) the term “assumed increase in the price index” means—

(i) 6.6 percent, in the case of fiscal year 1983,

(ii) 7.2 percent, in the case of fiscal year 1984, and

(iii) 6.6 percent, in the case of fiscal year 1985.

(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if this subsection had not been enacted.

(b)(1) Notwithstanding any other provision of law, any cost-of-living increase under a Government retirement system shall not take effect until—

5 USC 8340 note.

(A) the first day of the first calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1983;

(B) the first day of the second calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1984; and

(C) the first day of the third calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1985.

(2) Nothing in this subsection shall be construed to affect the eligibility for any increase in annuity or retired or retainer pay or the amount of the first increase in annuity or retired or retainer pay under section 8340 (b) or (c) of title 5, United States Code, or comparable provisions of law.

(c) For purposes of this section, the term “cost-of-living increase under a Government retirement system” means any increase under—

Definition.

5 USC 8340 note.

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

22 USC 4066.

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

(d)(1) In the case of any member or former member of a uniformed service who, during any period in fiscal year 1983, 1984, or 1985, is receiving retired or retainer pay and holds a civilian position, there shall be deducted from the pay for such position an amount equal to the amount of any increase in such individual's retired or retainer pay pursuant to section 1401a(b) of title 10, United States Code,

5 USC 5532 note.

which takes effect during any of such fiscal years in which he holds such a civilian position and which is allocable to the period of actual employment in such civilian position. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States.

(2) For the purpose of this subsection—

“Uniformed  
service.”

(A) the term “uniformed service” has the meaning given that term by section 2101 of title 5, United States Code; and

“Civilian  
position.”

(B) the term “civilian position” means a position, as defined in section 5531(2) of title 5, United States Code.

Prec. title 1 USC.

(3) This subsection shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(4) The reduction in pay required by this subsection does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

(A) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

#### DISABILITY RETIREMENT

SEC. 302. (a) Section 8337 of title 5, United States Code, is amended—

(1) by striking out “1 year” in the second sentence of subsection (d) and inserting in lieu thereof “180 days”;

(2) by striking out “each of 2 succeeding calendar years” in the third sentence of subsection (d) and inserting in lieu thereof “any calendar year”; and

“Technician.”

(3) by adding at the end thereof the following new subsection:

“(h)(1) As used in this subsection, the term ‘technician’ means an individual employed under section 709(a) of title 32 who, as a condition of the employment, is required under section 709(b) of such title to be a member of the National Guard and to hold a specified military grade.

“(2)(A) Except as provided in subparagraph (B) of this paragraph, an individual shall be retired under this section if the individual—

“(i) is separated from employment as a technician under section 709(e)(1) of title 32 by reason of a disability that disqualifies the individual from membership in the National Guard or from holding the military grade required for such employment;

“(ii) is not considered to be disabled under the second sentence of subsection (a) of this section;

“(iii) is not appointed to a position in the Government (whether under paragraph (3) of this subsection or otherwise); and

“(iv) has not declined an offer of an appointment to a position in the Government under paragraph (3) of this subsection.

“(B) Payment of any annuity for an individual pursuant to this subsection terminates—

“(i) on the date the individual is appointed to a position in the Government (whether pursuant to paragraph (3) of this subsection or otherwise);



“(ii) on the date the individual declines an offer of appointment to a position in the Government under paragraph (3); or  
 “(iii) as provided under subsection (d).

“(3) Any individual applying for or receiving any annuity pursuant to this subsection shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

“(A) the position is located within the commuting area of the individual’s former position;

“(B) the individual is qualified to serve in such position, as determined by the head of the agency; and

“(C) the position is at the same grade or equivalent level as the position from which the individual was separated under section 709(e)(1) of title 32.”.

(b) Section 8347(m) of title 5, United States Code, is amended—

(1) by striking out “and” at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

“(3) the Secretary of Health and Human Services or the Secretary’s designee shall provide information contained in the records of the Social Security Administration; and

“(4) the Secretary of Labor or the Secretary’s designee shall provide information on benefits paid under subchapter I of chapter 81 of this title.”.

(c)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall take effect October 1, 1982, and shall apply with respect to individuals retiring on or after such date.

(2) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect with respect to income earned after December 31, 1982.

(3) Subsection (h) of section 8337 of title 5, United States Code (as added by subsection (a)) shall apply to any technician (as defined in paragraph (1) of such subsection (h)) who separated from employment as a technician on or after December 31, 1979, and before October 1, 1982, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act. Any annuity resulting from such application shall commence as of the day after the date such application is received by the Office.

5 USC 8101.  
 Effective dates.  
 5 USC 8337 note.

#### INTEREST RATES, DEPOSITS, REFUNDS, AND REDEPOSITS

SEC. 303. (a)(1) Section 8334(e) of title 5, United States Code, is amended to read as follows:

“(e)(1) Interest under subsection (c), (d), or (j) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

“(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d), or (j) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not

be charged for a period of separation from the service which began before October 1, 1956.

"(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding calendar year from all obligations purchased by the Secretary of the Treasury during such calendar year under section 8348 (c), (d), and (e) of this title, as determined by the Secretary."

5 USC 8348.

(2) The second sentence of section 8343(a) of title 5, United States Code, is amended by inserting after "at 3 percent a year" the following: "through December 31, 1984, and thereafter at the rate computed under section 8334(e) of this title,".

*Ante*, p. 793.

(b) Section 8339(i) of title 5, United States Code, is amended to read as follows:

"(i) For the purposes of subsections (a)–(h) and (n) of this section, the total service of any employee or Member shall not include any period of civilian service after July 31, 1920, for which retirement deductions or deposits have not been made under section 8334(a) of this title unless—

5 USC 8334.

"(1) the employee or Member makes a deposit for such period as provided in section 8334(c) or (d) of this title; or

"(2) no deposit is required for such service, as provided under section 8334(g) of this title or under any statute."

Lump-sum credit.

(c) Section 8342(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee or Member who—

"(1)(A) is separated from the service for at least thirty-one consecutive days; or

"(B) is transferred to a position in which he is not subject to this subchapter and remains in such position for at least thirty-one consecutive days;

"(2) files an application with the Office of Personnel Management for payment of the lump-sum credit;

"(3) is not reemployed in a position in which he is subject to this subchapter at the time he files the application; and

"(4) will not become eligible to receive an annuity within thirty-one days after filing the application,

is entitled to be paid the lump-sum credit. The receipt of the payment of the lump-sum credit by the employee or Member voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, until the employee or Member is reemployed in the service subject to this subchapter."

5 USC 8334 note.

(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to refunds made on or after such date. The provisions of section 8334 and section 8339(i) of title 5, United States Code, as in effect the day before the date of the enactment of this Act, shall continue to apply with respect to periods of service and refunds occurring on or before September 30, 1982.

Effective date.

5 USC 8342 note.

(2) The amendment made by subsection (c) shall take effect October 1, 1982.

## ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 304. (a) The first sentence of section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

5 USC 8340 note.

## LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 305. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

5 USC 8337.

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met."

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

5 USC 8345 note.

## CREDITABLE SERVICE BASED ON MILITARY SERVICE

SEC. 306. (a) Section 8331(8)(B) of title 5, United States Code, is amended by inserting after "service" a comma and "including any amounts deposited under section 8334(j) of this title".

(b) Section 8332(c) of title 5, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and subsection (d) of this section—

"(A) the service of an individual who first becomes an employee or Member before October 1, 1982, shall include credit for each month of military service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject to section 8332(j) of this title; and

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for each month of military service (performed before the date of the separation on which the entitlement to an annuity

*Infra.* under this subchapter is based) only if a deposit with interest, if any, is made with respect to that month, as provided in section 8334(j) of this title.

“(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

“(A) based on a service-connected disability—

“(i) incurred in combat with an enemy of the United States; or

“(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

10 USC 1331 *et seq.*

“(B) under chapter 67 of title 10.”

(c) Subsection (j) of section 8332 of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(j)”; and

(2) by adding at the end thereof the following new paragraph:

“(2) The provisions of paragraph (1) of this subsection relating to credit for military service shall not apply to—

“(A) any month of military service of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(j) of this title; or

*Ante*, p. 795.

“(B) the service of any employee or Member described in section 8332(c)(1)(B) of this title.”

(d) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(j)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue within 90 days after the effective date of this subsection, to the agency by which the employee is employed or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each month of military service after December 1956, as certified to the agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, upon the employee's or Member's request.

Deposit.

“(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

“(A) October 1, 1982; or

“(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

Payment remittance.

“(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection."

(e) Section 8334(g)(2) of title 5, United States Code, is amended by inserting after "military service" the following: ", except to the extent provided under section 8332(c) or section 8334(j) of this title".

5 USC 8332;  
*Ante*, p. 796.

(f) Section 8348(g) of title 5, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "less an amount determined by the Office to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 8334(j) of this title."

(g) The amendments made by this section shall take effect October 1, 1982.

Effective date.  
5 USC 8331 note.

#### RECOMPUTATION AT AGE 62 OF CREDIT FOR MILITARY SERVICE OF CURRENT ANNUITANTS

SEC. 307. (a) The provisions of section 8332(j) of title 5, United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on or before the date of enactment of this Act.

5 USC 8332 note.

(b) Subject to subsection (b), in any case in which an individual described in subsection (a) is also entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under subchapter III of chapter 83 of title 5, United States Code, (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age insurance benefit for the determination month by a fraction—

5 USC 8331.

42 USC 402.

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(l) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

42 USC 409.

42 USC 410.

42 USC 429.

(2) the denominator of which is the total of all wages and deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1)) for each such year.

42 USC 430.

42 USC 415.

42 USC 409.

42 USC 411.

42 USC 415.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under this subchapter to the individual for the determination month if section

- 8332(j) of title 5, United States Code, applied to the individual for such month.
- “Determination month.” (d) For purposes of this section, the term “determination month” means—
- 42 USC 402. (1) the first month the individual described in subsection (a) is entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or
- (2) October 1982, in the case of any individual so entitled to such benefits for such month.
- Effective date. (e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1982.
- 5 USC 8331. (f) The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the preceding provisions of this section.

## IMMEDIATE RETIREMENT

SEC. 308. (a) Subsection (d) of section 8336 of title 5, United States Code, is amended to read as follows:

“(d) An employee who—

“(1) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

“(2) while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

“(A) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

“(B) a significant percent of the employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

5 USC 5361.

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity. Notwithstanding the first sentence of this subsection, an employee described in paragraph (1) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, which is not lower than 2 grades (or pay levels) below the employee's grade (or pay level), and which is within the employee's commuting area.”.

Nonentitlement of annuity.

Effective date.

5 USC 8336 note.

(b) The amendment made by subsection (a) shall take effect October 1, 1982.

## GENERAL LIMITATION ON COST-OF-LIVING ADJUSTMENT FOR ANNUITIES

SEC. 309. (a) Section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

“(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

“(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

5 USC 5301.

“(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee’s or Member’s annuity commenced), and

“(ii) ending on the effective date of the adjustment under this section.

“(2) For the purposes of paragraph (1) of this subsection, ‘pay’ means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.”

“Pay.”

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date of the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

5 USC 8340 note.

#### FEDERAL EMPLOYEE PAY ADJUSTMENTS

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

5 USC 5305 note.

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

Effective date.

(b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

5 USC 5504 note.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

5 USC 8331.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

## SUBTITLE B—LIMITATION ON TRAVEL AND TRANSPORTATION EXPENSES

## TRAVEL AND TRANSPORTATION EXPENSES FOR VACATION LEAVE

SEC. 351. (a) Section 5728 of title 5, United States Code, is amended by inserting a comma and “Alaska, and Hawaii” after “continental United States” each place it occurs in subsections (a) and (b).

(b) Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

“(c)(1) Under such regulations as the President may prescribe, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

“(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of appointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii under a new written agreement made before departing from the post of duty.

“(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.”

5 USC 5728 note.

(c) Notwithstanding section 5728(c)(3) of title 5, United States Code (as added by subsection (b)(2) of this section), the agency shall pay under section 5728(c)(1) of such title (as added by subsection (b)(2) of this section) the expenses of one round-trip of travel of an employee who has served on consecutive tours of duty at posts of duty in Alaska or Hawaii for a period beginning at least five years before the date of enactment of this Act and including such date and the expenses of transportation of such employee’s immediate family on one round-trip.

Effective date.

5 USC 5728 note.

(d) The amendments made by subsection (a) shall take effect with respect to expenses incurred after the date of enactment of this Act for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

“Employee.”

5 USC 5728 note.

(e) For the purposes of subsections (c) and (d), the term “employee” shall have the same meaning as provided in section 5721(2) of title 5, United States Code.



## Subtitle C—Cost-of-Living Adjustments

## UNIFORMED SERVICES

SEC. 361. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(2), section 2(c)(2), and section 2(c)(4) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

*Ante*, p. 790.

## COAST GUARD

SEC. 362. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(4) and section 2(c)(6) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

## FOREIGN SERVICE

SEC. 363. For cost savings achieved through a limitation on the amount of the annual adjustment of the annuity payable from the Foreign Service Retirement and Disability Fund, in satisfaction of the reconciliation requirements of section 2(b)(5) and section 2(c)(5) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and sections 826 and 827 of the Foreign Service Act of 1980.

22 USC 4066,  
4067.

## TITLE IV—VETERANS' BENEFITS

## COMMENCEMENT OF CERTAIN PERIODS OF PAYMENT

SEC. 401. (a)(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 3010 the following new section:

**“§ 3011. Commencement of period of payment**

38 USC 3011.

“(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

38 USC 3010.

“(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

Waiver.

38 USC 3105.

38 USC 3110.

"Award or increased award."

Effective date.  
38 USC 3011  
note.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

"(d) For the purposes of this section, the term 'award or increased award' means—

"(1) an original or reopened award; or

"(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of period of payment."

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.

#### ADVANCEMENT OF EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 402. (a) Section 3012(b)(2) of title 38, United States Code, is amended by striking out "calendar year" and inserting in lieu thereof "month".

38 USC 3012  
note.

(b) The amendment made by subsection (a) shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.

#### ROUNDING DOWN OF PENSION TO NEAREST DOLLAR

SEC. 403. (a)(1) Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 3023.

#### "§ 3023. Rounding down of pension rates

38 USC 521, 541,  
542.

38 USC 521 note.

"The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of \$1, shall be rounded down to the nearest dollar."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding down of pension rates."

38 USC 3023  
note.

(b) The amendment made by this section shall apply with respect to amounts payable for periods beginning after May 31, 1983.

## ROUNDING RULE FOR CERTAIN RATES OF COMPENSATION

SEC. 404. (a) Section 314(p) of title 38, United States Code, is amended by inserting "down" after "rounded".

(b) The second sentence of section 315(2) of such title is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of \$1, shall be rounded down to the nearest dollar.".

(c) The amendments made by this section shall take effect on October 1, 1982.

38 USC 315.

Effective date.

38 USC 314 note.

## ROUNDING DOWN OF FISCAL YEAR 1983 COMPENSATION COST-OF-LIVING INCREASE

SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, 1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

38 USC 314 note.

38 USC 301 *et seq.*, 401 *et seq.*

(b) Section 314 of title 38, United States Code, is amended—

95 Stat. 1026.

(1) by striking out "\$58" in subsection (a) and inserting in lieu thereof "\$57";

(2) by striking out "\$162" in subsection (c) and inserting in lieu thereof "\$161";

(3) by striking out "\$413" in subsection (f) and inserting in lieu thereof "\$412";

(4) by striking out "\$604" in subsection (h) and inserting in lieu thereof "\$603";

(5) by striking out "\$62", "\$1,403", "\$62", and "\$1,966" in subsection (k) and inserting in lieu thereof "\$61", "\$1,402", "\$61", and "\$1,965", respectively;

(6) by striking out "\$1,403" in subsection (l) and inserting in lieu thereof "\$1,402";

(7) by striking out "\$1,547" in subsection (m) and inserting in lieu thereof "\$1,546";

(8) by striking out "\$1,758" in subsection (n) and inserting in lieu thereof "\$1,757";

(9) by striking out "\$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "\$1,965";

(10) by striking out "\$844" and "\$1,257" in subsection (r) and inserting in lieu thereof "\$843" and "\$1,256", respectively;

(11) by striking out "\$1,264" in subsection (s) and inserting in lieu thereof "\$1,263"; and

(12) by striking out "\$244" in subsection (t) and inserting in lieu thereof "\$243".

(c) Section 315 of such title is amended—

95 Stat. 1027.

(1) by striking out "\$116" in clause (1)(B) and inserting in lieu thereof "\$115";

38 USC 315.

(2) by striking out "\$38" in clause (1)(D) and inserting in lieu thereof "\$37"; and

## FEE FOR HOME LOANS

SEC. 406. (a)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 1829. Loan fee**

38 USC 1829.

“(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one-half of one percent of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

“(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of this title.

95 Stat. 1059.

“(c) Fees collected under this section shall be deposited into the Treasury of the United States as miscellaneous receipts.

38 USC 1801.

“(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

“1829. Loan fee.”

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

38 USC 1829  
note.

## TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

## FEDERAL COMMUNICATIONS COMMISSION

SEC. 501. (a) Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

Term expiration;  
office  
abolishment.  
47 USC 154 note.

(1) is prescribed by law;

(2) is in effect before the date of the enactment of this Act;  
and

(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.

(b)(1) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out “seven” and inserting in lieu thereof “five”.

(2) The last sentence of section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows: “The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners

which constitutes a majority of the full membership of the Commission.”.

(3) Section 4(h) of the Communications Act of 1934 (47 U.S.C. 154(h)) is amended by striking out “Four” and inserting in lieu thereof “Three”.

Effective date.  
47 USC 154 note.

(4) The amendments made in paragraphs (1), (2), and (3) of this subsection shall take effect on July 1, 1983.

#### INTERSTATE COMMERCE COMMISSION

Office  
abolishment.  
49 USC 10301  
note.

SEC. 502. (a) Effective January 1, 1983, each office within the Interstate Commerce Commission provided in section 10301(b) of title 49, United States Code (except one of the two offices prescribed by law to expire on December 31, 1984), which was vacant on July 1, 1982, is abolished.

(b) Effective January 1, 1983, section 10301(b) of title 49, United States Code, is amended (1) by striking out “11” and inserting in lieu thereof “7”, and (2) by striking out “6 members” and inserting in lieu thereof “4 members”.

Term expiration;  
office  
abolishment.  
49 USC 10301  
note.

(c) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

49 USC 10301  
note.

(d) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(e) Effective January 1, 1986, section 10301(b) of title 49, United States Code, is amended (1) by striking out “7” and inserting in lieu thereof “5”, and (2) by striking out “4 members” and inserting in lieu thereof “3 members”.

49 USC 10301  
note.

(f) Nothing in subsection (c) or (d) of this section shall be construed as prohibiting the reappointment of any person serving in such office in terms expiring on December 31, 1982, or December 31, 1983, respectively.

Term expiration.  
49 USC 10301  
note.

(g) The term of office of one of the two persons appointed to fill an office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1987, shall end on December 31, 1991. At the time of the first of such two appointments, the President shall designate which appointment is to fill the term of office which shall end under the preceding sentence on December 31, 1991.

(h)(1) Section 10301(c) of title 49, United States Code, is amended by striking out “7 years” and inserting in lieu thereof “5 years”.

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1984, and shall apply to any person appointed, after such date, to fill any office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire after such date, except that such amendment shall not apply to the person designated by the President to fill the term of office which is to end under subsection (g) of this section on December 31, 1991.

Effective date.  
49 USC 10301  
note.

Approved September 8, 1982.

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LEGISLATIVE HISTORY—H.R. 6955 (H.R. 6782) (H.R. 6812) (H.R. 6862) (H.R. 6892) (S. 2774):

HOUSE REPORTS: No. 97-660 accompanying H.R. 6782 (Comm. on Veterans' Affairs), No. 97-683 accompanying H.R. 6812 (Comm. on Banking, Finance and Urban Affairs), No. 97-687 accompanying H.R. 6892 (Comm. on Agriculture), Nos. 97-750 and 97-759 (Comms. of Conference).

SENATE REPORT No. 97-504 accompanying S. 2774 (Comm. on the Budget).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 27, H.R. 6782 considered and passed House.

Aug. 3, H.R. 6862 considered and passed House.

Aug. 4, 5, S. 2774 considered and passed Senate.

Aug. 5, H.R. 6812 considered and passed House.

Aug. 10, H.R. 6892 considered and passed House.

Aug. 10, considered and passed House.

Aug. 11, considered and passed Senate, amended, in lieu of S. 2774.

Aug. 18, House and Senate agreed to conference report.

Public Law 97-254  
97th Congress

An Act

Sept. 8, 1982  
[H.R. 6409]

To provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes.

1984 Louisiana  
World  
Exposition.  
U.S.  
participation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with the Act entitled "An Act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes", approved May 27, 1970 (22 U.S.C. 2801 et seq.), the President is authorized to provide for United States participation in an international exposition to be known as the 1984 Louisiana World Exposition (hereinafter in this Act referred to as the "Exposition"), to be held in New Orleans, Louisiana. The purposes of the Exposition are—

(1) to offer the citizens of the world a greater understanding and appreciation of rivers and fresh water as a basis of life, providing food, transportation, energy, generating related industry and commercial activity, and serving as a source of aesthetic gratification, social interchange, and inspiration for the arts;

(2) to create an awareness of the need to conserve and protect the world's fresh water resources from the hazards of increasing demands, diminishing supplies, pollution, and ecological disruption; and

(3) to stimulate international trade, encourage tourist travel in and to the United States, and promote cultural exchanges.

SEC. 2. (a) The President, through the Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") and the other officials designated in this Act, is authorized to carry out in the most effective manner the proposal for United States participation in the Exposition, transmitted by the President to the Congress pursuant to section 3 of Public Law 91-269 (22 U.S.C. 2803), and to fulfill the obligations of the Federal Government under the Convention Relating to International Expositions, done at Paris, France, on November 22, 1928, as amended, and entered into by the United States at Paris on April 30, 1968 (hereinafter in this Act referred to as the "Convention"), and under the General Rules for the 1984 Louisiana World Exposition, as approved by the Bureau of International Expositions.

(b)(1) The President is authorized to appoint, by and with the advice and consent of the Senate, a Commissioner General of the United States Government for the 1984 Louisiana World Exposition, who shall be in the Department of Commerce and who shall be the senior Federal official for the Exposition. The Commissioner General shall have such duties and exercise such responsibilities as may be prescribed by the Secretary and as may be necessary and appropriate to fulfill the obligations of the United States Government

Commissioner  
General of the  
U.S.  
Government,  
appointment.  
Duties and  
responsibilities.

under the Convention and the General Rules for the 1984 Louisiana World Exposition.

(2) The Commissioner General shall be compensated at a rate not greater than the minimum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

Compensation.

(c) The Secretary of State may assign for duty with the Exposition not more than two career members of the Foreign Service who have the rank of ambassador, and who are not otherwise assigned, to assist the Commissioner General in performing the functions of the Commissioner General in foreign countries and in carrying out the diplomatic responsibilities of the United States as the host Government of the Exposition. The travel and other necessary expenses authorized by law which are incurred by any individual or individuals assigned under this subsection in carrying out the responsibilities of that assignment shall be paid from funds appropriated to carry out this Act. The assignment of any individual or individuals under this subsection shall terminate at the close of the Exposition or on such other date as may be agreed upon by the Secretary of State and the Secretary.

Foreign Service career members, assignment.

Travel and other expenses.

Termination.

(d) Any functions which the Commissioner General or any individual or individuals assigned under subsection (c) of this section perform in a foreign country shall be performed in consultation with the Chief of the United States diplomatic mission in that country, and the Commissioner General or such individual or individuals shall keep the Secretary of State fully and currently informed with respect to all those functions so performed.

(e) The Secretary shall designate a Commissioner General of Section for United States participation in the Exposition (as provided in the proposal referred to in subsection (a) of this section), who shall be in the Department of Commerce and who shall perform such duties in carrying out this Act as may be delegated or assigned by the Secretary, including serving as director of the United States pavilion.

Commissioner General of Section for U.S., designation.

SEC. 3. To such extent or in such amounts as are provided in appropriation Acts, the Secretary is authorized to—

(1) lease such buildings and other structures or space therein (including commercial space for administrative purposes) and any land appurtenant thereto, and to make such improvements and renovations in such buildings or other structures as may be appropriate for United States participation in the Exposition;

(2) incur such other expenses as may be necessary to carry out the purposes of this Act, including—

(A) expenditures for the design, development, construction, installation, rental, purchase, or other acquisition of exhibits and materials and equipment for exhibits, and for the actual display, dismantling, and disposition of exhibits; and

(B) expenditures for transportation, insurance, safekeeping and storage, maintenance and operation, printing, purchase of reference books, newspapers, and periodicals, and publicity; and

(3) enter into such contracts and agreements as may be necessary to provide for United States participation in the Exposition.

SEC. 4. The Secretary is authorized to obtain the services of consultants and experts as authorized by section 3109 of title 5,

Consultants and experts.



- Compensation. United States Code, to the extent the Secretary considers it necessary to carry out the provisions of this Act. Persons so appointed shall be compensated at rates not to exceed the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule. To such extent or in such amounts as are provided in appropriation Acts, persons so appointed shall be reimbursed for travel and other necessary expenses incurred, including a per diem allowance, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service.
- 5 USC 5332 note.  
Travel and other expenses.
- Voluntary services. SEC. 5. (a) Notwithstanding section 3679(b) of the Revised Statutes of the United States (31 U.S.C. 665(b)) and section 3111 of title 5, United States Code, the Secretary is authorized to recruit, train, and accept the voluntary services of individuals in carrying out those functions, services, or activities in and related to United States participation in the Exposition.
- Incidental expenses. (b) To such extent or in such amounts as are provided in appropriations Acts, the Secretary is authorized to provide for incidental expenses of individuals providing voluntary services described in subsection (a), including transportation, uniforms, lodging, and subsistence expenses.
- (c)(1) Except as provided in paragraphs (2) and (3) of this subsection, an individual providing voluntary service described in subsection (a) shall not be deemed to be a Federal employee and shall not be subject to those provisions of law relating to Federal employment, including provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.
- (2) For purposes of section 1346(b) and chapter 171 of title 28, United States Code, an individual providing voluntary service described in subsection (a) shall be deemed to be an employee of the government.
- (3) An individual providing voluntary service described in subsection (a) shall be deemed to be an "employee" for purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries. For purposes of that subchapter, such an individual shall be deemed to be receiving monthly pay at the minimum rate of GS-2 of the General Schedule.
- 28 USC 1346,  
2671 *et seq.*
- Work injuries, compensation.  
5 USC 8101.
- 5 USC 5332 note.
- SEC. 6. (a) To such extent or in such amounts as are provided in appropriation Acts, the Secretary is authorized—
- (1) notwithstanding the requirements of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), to purchase for resale and to sell at fair market value books, brochures, recordings, souvenirs, and other items in conformity with the theme of the Exposition and commemorative of United States participation in the Exposition, and to charge an amount sufficient to realize a reasonable profit on the sale of those items; and
- (2) to enter into contracts and leases, including cooperative arrangements and concessions agreements, with respect to the sale of the items described in paragraph (1).
- The proceeds from the sale of the items described in paragraph (1) shall be credited to the appropriation for United States participation in the Exposition and, to the extent provided in advance in appropriation Acts, such credited amounts may be used for such participation. To the extent that such proceeds exceed the amounts necessary

to provide for such participation, they shall be covered into the Treasury as miscellaneous receipts.

(b) The Secretary is authorized to provide, without charge, aid and assistance to visitors to the United States pavilion in emergencies.

Emergency assistance.

SEC. 7. The Secretary shall take all reasonable measures to facilitate the participation in the Exposition of the governments of other countries and their nationals, to assure adherence to the protocols of the Bureau of International Expositions, and to cooperate with the Louisiana World Exposition, Incorporated in its efforts and the efforts of the Federal Government to organize, develop, and administer the Exposition successfully.

SEC. 8. The Secretary shall encourage private individuals, firms, associations, agencies, and other groups to participate to the maximum extent feasible in carrying out the purposes of this Act and to make contributions of funds, property, use of property, and services to be used in carrying out this Act. The Secretary is authorized to accept such contributions.

Contributions.

SEC. 9. The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Secretary with respect to carrying out this Act; and

(2) to make available to the Secretary from time to time, on a reimbursable or nonreimbursable basis, such personnel as may be necessary to assist the Secretary in carrying out this Act.

SEC. 10. Within one year after the date of the official close of the Exposition, the Secretary shall transmit to the Congress a report on the activities of the Federal Government under this Act, including a detailed statement of expenditures made under this Act. Upon transmittal of such report to the Congress, all appointments made under this Act shall terminate, except that the Secretary may extend any such appointment for such additional period of time as the Secretary considers necessary to carry out the purposes of this Act. The preceding sentence shall not apply to assignments made under section 2(c) of this Act.

Report to Congress.

Termination.

SEC. 11. After the close of the Exposition, all Federal property acquired to carry out this Act shall be disposed of in the discretion of the Secretary, upon such terms and conditions as the Secretary considers appropriate, in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 and other applicable Federal laws relating to the disposition of excess and surplus property.

Federal property, disposal.

40 USC 471 note.

SEC. 12. The functions authorized by this Act may be performed without regard to the requirements, prohibitions, and limitations of the following laws:

(1) Section 3109(b) of title 5, United States Code, to the extent that section limits procurement of temporary services to one year.

(2) Section 5(a) of the Act of July 16, 1914 (31 U.S.C. 638a(a)), as amended by section 16(a) of the Administrative Expenses Act of 1946, to the extent that section pertains to hiring automobiles.

(3) Section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)).

(4) Section 305(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255(c)), and section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), if the Secretary determines that it is impracticable to obtain adequate

security in a particular case and that there is a compelling need to make an advance payment in that case.

(5) Section 322 of the Act of June 20, 1932 (40 U.S.C. 278a), if the Secretary determines that waiver of that section would be in the best interests of the Federal Government.

(6) Section 2 of the Act of March 3, 1933 (popularly known as the "Buy American Act"; 41 U.S.C. 10a).

(7) Section 501 of title 44, United States Code.

(8) Section 3702 of title 44, United States Code.

(9) Section 3703 of title 44, United States Code.

SEC. 13. The Secretary may issue such regulations as the Secretary considers necessary to carry out this Act.

Appropriation  
authorization.

SEC. 14. (a) There is authorized to be appropriated \$10,000,000 to carry out the purposes of this Act.

(b) Amounts appropriated under this section are authorized to remain available until expended.

Effective date.  
22 USC 2803  
note.

SEC. 15. This Act shall take effect upon its enactment, except that section 2(b)(2) and the second sentence of section 4 shall become effective on October 1, 1982.

SEC. 16. (a) That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803), is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2) and (3), respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

Federal pavilion  
construction.

(4) by adding at the end thereof the following new subsections:  
"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

“(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

Temporary  
Federal pavilion.

“(c) The enactment of a specific authorization of appropriations shall be required—

“(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

“(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

“(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

“(d) For the purposes of this section—

“(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

“(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.”.

Approved September 8, 1982.

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LEGISLATIVE HISTORY—H.R. 6409:

HOUSE REPORT No. 97-639 (Comm. on Foreign Affairs).

SENATE REPORT No. 97-525 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, considered and passed House.

Aug. 19, considered and passed Senate, amended; House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 36 (1982):

Sept. 8, Presidential statement.

Public Law 97-255  
97th Congress

An Act

Sept. 8, 1982

[H.R. 1526]

To amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Federal Managers' Financial Integrity Act of 1982".

SEC. 2. Section 113 of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that—

"(i) obligations and costs are in compliance with applicable law;

"(ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and

"(iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

"(B) The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings.

"(2) By December 31, 1982, the Director of the Office of Management and Budget, in consultation with the Comptroller General, shall establish guidelines for the evaluation by agencies of their systems of internal accounting and administrative control to determine such systems' compliance with the requirements of paragraph (1) of this subsection. The Director, in consultation with the Comptroller General, may modify such guidelines from time to time as deemed necessary.

"(3) By December 31, 1983, and by December 31 of each succeeding year, the head of each executive agency shall, on the basis of an evaluation conducted in accordance with guidelines prescribed under paragraph (2) of this subsection, prepare a statement—

"(A) that the agency's systems of internal accounting and administrative control fully comply with the requirements of paragraph (1); or

"(B) that such systems do not fully comply with such requirements.

"(4) In the event that the head of an agency prepares a statement described in paragraph (3)(B), the head of such agency shall include with such statement a report in which any material weaknesses in the agency's systems of internal accounting and administrative

Federal  
Managers'  
Financial  
Integrity Act of  
1982.  
31 USC 65 note.

Internal  
accounting and  
administrative  
controls.  
Establishment.

Evaluation  
guidelines.

Modification.

Compliance.  
statement.

Report.

control are identified and the plans and schedule for correcting any such weakness are described.

“(5) The statements and reports required by this subsection shall be signed by the head of each executive agency and transmitted to the President and the Congress. Such statements and reports shall also be made available to the public, except that, in the case of any such statement or report containing information which is—

Statements and reports, transmittal to President and Congress; availability to public.

“(A) specifically prohibited from disclosure by any provision of law; or

“(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs,

such information shall be deleted prior to the report or statement being made available to the public.”.

SEC. 3. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsection:

“(k)(1) The President shall include in the supporting detail accompanying each Budget submitted on or after January 1, 1983, a separate statement, with respect to each department and establishment, of the amounts of appropriations requested by the President for the Office of Inspector General, if any, of each such establishment or department.

Appropriations.

“(2) At the request of a committee of the Congress, additional information concerning the amount of appropriations originally requested by any office of Inspector General, shall be submitted to such committee.”.

SEC. 4. Section 113(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a(b)), is amended by adding at the end thereof the following new sentence: “Each annual statement prepared pursuant to subsection (d) of this section shall include a separate report on whether the agency’s accounting system conforms to the principles, standards, and related requirements prescribed by the Comptroller General under section 112 of this Act.”.

Agency’s accounting system.

31 USC 66a.

Approved September 8, 1982.

#### LEGISLATIVE HISTORY—H.R. 1526 (S. 864):

HOUSE REPORT No. 97-38 (Comm. on Government Operations).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): May 18, considered and passed House.

Vol. 128 (1982): Aug. 4, considered and passed Senate, amended.

Aug. 19, House concurred in Senate amendment.

Public Law 97-256  
97th Congress

An Act

Sept. 8, 1982  
[H.R. 3345]

To make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Patent and  
trademark laws  
and Civil Rights  
of  
Institutionalized  
Persons Act,  
amendments.

TITLE I—CHANGES IN THE PATENT AND TRADEMARK  
LAWS

SEC. 101. Title 35 of the United States Code is amended—

(1) in the first sentence of section 41(a) by striking out “of Patents”;

(2)(A) in the first sentence of section 41(b) by striking out “the first day of the first fiscal year beginning on or after one calendar year after enactment of this Act” and inserting in lieu thereof “October 1, 1982”;

(B) in the second sentence of section 41(b) by striking out “the first day of the first fiscal year beginning on or after one calendar year after enactment” and inserting in lieu thereof “October 1, 1982”;

(3) in the first sentence of section 41(c) by striking out “the fifteenth fiscal year following the date of enactment of this Act” and inserting in lieu thereof “October 1, 1996”;

(4) in the first sentence of section 41(d) by striking out “the first day of the first fiscal year beginning on or after one calendar year after enactment” and inserting in lieu thereof “October 1, 1982”;

(5) by redesignating chapter 38 as chapter 18 and transferring that chapter from the end of part IV to the end of part II;

(6) in the analysis of part II by inserting the following item after item 17:

“18. Patent Rights in Inventions Made with Federal Assistance ..... 200”;  
and

(7) in the analysis of part III by inserting the following item after item 29:

“30. Prior Art Citations to Office and Reexamination of Patents ..... 301”.

SEC. 102. Subsection (b) of section 6 of Public Law 96-517 (94 Stat. 3027) and the amendment made by it are repealed.

SEC. 103. The first sentence of section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) is amended by striking out “of Patents”.

TITLE II—CHANGES IN THE CIVIL RIGHTS OF  
INSTITUTIONALIZED PERSONS ACT

SEC. 201. (a) That portion of section 4(a) of the Civil Rights of Institutionalized Persons Act which precedes paragraph (1) thereof is amended by striking out “section 2” and inserting in lieu thereof “section 3”.

(b) That portion of section 8 of the Civil Rights of Institutionalized Persons Act which precedes paragraph (1) thereof is amended by striking out “Attorney” and inserting in lieu thereof “Attorney General”. 42 USC 1997f.

Approved September 8, 1982.

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**LEGISLATIVE HISTORY—H.R. 3345:**

HOUSE REPORT No. 97-389 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Mar. 16, 18, considered and passed House.  
Aug. 20, considered and passed Senate.



Public Law 97-257  
97th Congress

## An Act

Sept. 10, 1982  
[H.R. 6863]

Making supplemental appropriations for the fiscal year ending September 30, 1982,  
and for other purposes.

Supplemental  
Appropriations  
Act, 1982.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, namely:

## TITLE I

## CHAPTER I

## DEPARTMENT OF AGRICULTURE

## COMMODITY CREDIT CORPORATION

## AUTHORITY TO BORROW

15 USC 713a-4  
and note, 714b  
and note.

As authorized by section 301 of Public Law 95-279, \$5,000,000,000 shall be available to the Commodity Credit Corporation for necessary expenses in carrying out its authorized programs, to remain available without regard to fiscal year limitations: *Provided*, That not more than \$500,000,000 of this amount shall be available for export credit loans as authorized by the Charter of the Commodity Credit Corporation.

## CONSERVATION

## SOIL CONSERVATION SERVICE

## CONSERVATION OPERATIONS

Funds appropriated for fiscal year 1982 under this account may be used under the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f), for the acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100.

## FOOD AND NUTRITION SERVICE

## CHILD NUTRITION PROGRAMS

42 USC 1788.

If the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be \$50,000.

## CHAPTER II

## DEPARTMENT OF COMMERCE

## BUREAU OF THE CENSUS

## PERIODIC CENSUSES AND PROGRAMS

## (DISAPPROVAL OF DEFERRAL)

The Congress disapproves \$100,000 of the proposed deferral D82-225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs" as set forth in the message of February 5, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

## ECONOMIC DEVELOPMENT ADMINISTRATION

## ECONOMIC DEVELOPMENT REVOLVING FUND

During fiscal year 1982, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$30,000,000. During fiscal year 1982, total commitments to guarantee loans shall not exceed \$150,000,000 of contingent liability for loan principal. The unobligated balances in the Economic Development Revolving Fund shall be available for necessary expenses of protecting the Government's liability in federally guaranteed loans made prior to October 1, 1981, under the authority of title II of the Trade Act of 1974, as amended, including defaults of loan guarantees and care and protection of collateral and such other costs as may be necessary to protect the Government's investments.

19 USC 2251.

## INTERNATIONAL TRADE ADMINISTRATION

## OPERATIONS AND ADMINISTRATION

During fiscal year 1982, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$12,484,000.

During fiscal year 1982, total commitments to guarantee loans shall not exceed \$28,250,000 of contingent liability for loan principal.

## PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for designing, fabricating, installing and dismantling exhibits, and operating a Federal Pavilion in the Louisiana World Exposition, \$10,000,000, to remain available through September 30, 1985, including not to exceed \$65,000 for official entertainment of officials of other countries when specifically authorized by the Commissioner General: *Provided*, That no additional Federal funds shall be made available for this purpose: *Provided further*, That these funds shall be available only upon enactment into law of authorizing legislation.

## MINORITY BUSINESS DEVELOPMENT AGENCY

## MINORITY BUSINESS DEVELOPMENT

## (DEFERRAL)

*Ante*, p. 22.

Of the funds appropriated under this head in Public Law 97-161, \$12,000,000 are deferred for obligation until October 1, 1982.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

## OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", \$2,163,000, to remain available until expended: *Provided*, That of the funds appropriated under this head, \$200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed \$50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982.

## COASTAL ZONE MANAGEMENT

## (TRANSFER OF FUNDS)

For an additional amount for "Coastal zone management", \$3,000,000, to be derived by transfer from repayments of principal and interest on outstanding loans in the fund entitled "Coastal Energy Impact Fund", to remain available until expended.

## FOREIGN FISHING OBSERVER FUND

16 USC 971b,  
971h, 971i, 1827.

For expenses necessary to carry out the provisions of the Fishery Conservation and Management Act of 1976, as amended (Public Law 96-339), there are appropriated from the fees imposed under the foreign fishing observer program authorized by that Act, not to exceed \$1,000,000, to remain available until expended.

## PATENT AND TRADEMARK OFFICE

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$2,500,000, to remain available until expended.

All appropriations under this head for fiscal year 1982 and all fees collected shall remain available until expended.

## RELATED AGENCIES

## DEPARTMENT OF TRANSPORTATION

## MARITIME ADMINISTRATION

## FEDERAL SHIP FINANCING FUND

During 1982, total commitments to guarantee loans shall not exceed \$675,000,000 of contingent liability for loan principal.

## DEPARTMENT OF THE TREASURY

## BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

## FISHERMEN'S PROTECTIVE FUND

For payment to the Fishermen's Protective Fund, in accordance with section 5 of Public Law 92-569 approved October 26, 1972, \$2,000,000, to remain available until expended. 22 USC 1979.

## SECURITIES AND EXCHANGE COMMISSION

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$400,000.

## SMALL BUSINESS ADMINISTRATION

## SALARIES AND EXPENSES

Of the amount appropriated for "Salaries and expenses" for fiscal year 1982, \$11,200,000 shall be available only for grants for Small Business Development Centers as authorized by section 20(a) of the Small Business Act, as amended.

15 USC 631 note.

## BUSINESS LOAN AND INVESTMENT FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed \$3,000,000,000 of contingent liability for loan principal.

## (DISAPPROVAL OF DEFERRAL)

The Congress disapproves \$2,500,000 of the proposed deferral D82-233A relating to the Small Business Administration, "Business Loan and Investment Fund" as set forth in the message of May 18, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

## SURETY BOND GUARANTEES REVOLVING FUND

## (DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D82-234 relating to the Small Business Administration, "Surety Bond Guarantees

Revolving Fund” as set forth in the message of February 5, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING  
FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed \$250,000,000 of contingent liability for loan principal.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Salaries and expenses, general legal activities”, \$383,000; and in addition, \$1,800,000 which shall be derived by transfer from “Salaries and expenses, Antitrust Division”.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

Amounts appropriated under this head for fiscal year 1982 may be used to pay allowances and benefits similar to those allowed under the Foreign Service Act of 1980, as determined by the Commission.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For an additional amount for “Salaries and expenses, United States attorneys and marshals”, \$9,015,000, of which \$500,000 shall be available only for bankruptcy trustees.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for “Support of United States prisoners”, \$7,423,000, of which \$1,600,000 is appropriated to fund fiscal year 1981 obligations in excess of amounts available: *Provided*, That not to exceed \$3,000,000 of the current year appropriation shall be available for the purpose of renovating and equipping State and local jails that confine Federal prisoners.

FEES AND EXPENSES OF WITNESSES

For an additional amount for “Fees and expenses of witnesses”, \$4,750,000.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Of the funds provided under the above heading for fiscal year 1982, not to exceed \$80,290 shall be available to satisfy a settlement pursuant to the Back Pay Act (5 U.S.C. 5596 and 29 CFR 1613.217(a), 271 (a), (b), and (c)) for back wages from prior fiscal years.

## FEDERAL BUREAU OF INVESTIGATION

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$4,400,000: *Provided*, That amounts appropriated under this head for fiscal year 1982 may be used to purchase one thousand five hundred police-type passenger motor vehicles for replacement only: *Provided further*, That not to exceed \$5,000,000 for automated data processing and telecommunications and \$600,000 for undercover operations shall be available until September 30, 1983: *Provided further*, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation Acts.

## IMMIGRATION AND NATURALIZATION SERVICE

## SALARIES AND EXPENSES

From amounts appropriated under this head for fiscal year 1982, \$400,000 for research and \$1,821,000 for construction shall remain available until expended: *Provided*, That funds appropriated under this head for fiscal year 1982 may be used to purchase not to exceed five hundred ten police-type passenger motor vehicles of which four hundred thirty shall be for replacement only.

## DRUG ENFORCEMENT ADMINISTRATION

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$4,860,000: *Provided*, That of amounts appropriated under this head for fiscal year 1982, \$1,200,000 for research shall remain available until expended and \$1,700,000 for the purchase of evidence and payments for information shall remain available until September 30, 1983: *Provided further*, That funds appropriated under this head for fiscal year 1982 may be used to purchase not to exceed two hundred seventy-seven police-type passenger motor vehicles for replacement only.

## FEDERAL PRISON SYSTEM

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$130,000: *Provided*, That the amounts appropriated under this head for fiscal year 1982 may be used to purchase thirty-one law enforcement and passenger motor vehicles, of which twenty-seven are for replacement only.

## BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", \$41,750,000, of which \$1,000,000 shall be derived by transfer from

“Salaries and expenses, Antitrust Division”, to remain available until expended: *Provided*, That sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned: *And provided further*, That the building to house aliens be constructed in a separate building from an existing Bureau of Prisons building housing Federal prisoners.

#### FEDERAL PRISON INDUSTRIES, INCORPORATED

##### LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed \$2,417,000 of the funds of the Corporation shall be available for its administrative expenses and not to exceed \$2,983,000 shall be available for the vocational training of prisoners.

#### OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

##### RESEARCH AND STATISTICS

##### (TRANSFER OF FUNDS)

Study, submittal  
to Congress.

For an additional amount for “Research and statistics”, \$450,000, to be derived by transfer from “Law enforcement assistance” for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

#### GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

8 USC 1522 note.

Notwithstanding section 501(e)(2)(B) of Public Law 96-422, funds made available to the Department of Justice for fiscal year 1982 may be expended for assistance to Cuban-Haitian entrants as authorized under section 501(c) of said Act.

#### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### SALARIES AND EXPENSES

22 USC 2680.

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for “Salaries and expenses”, \$37,978,000, of which \$31,228,000 shall remain available until September 30, 1984.

##### ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for “Acquisition, operation, and maintenance of buildings abroad”, \$17,655,000, to remain available until September 30, 1984.

##### PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for “Payment to the American Institute in Taiwan”, \$244,000.

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", \$4,615,000. 22 USC 2680.

## INTERNATIONAL COMMISSIONS

## AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Of the amount appropriated under this head for fiscal year 1982, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, not to exceed \$95,000 for the International Joint Commission shall remain available until September 30, 1983.

## RELATED AGENCIES

## BOARD FOR INTERNATIONAL BROADCASTING

## GRANTS AND EXPENSES

## (DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D82-248 relating to the Board for International Broadcasting, "Grants and expenses", as set forth in the message of June 2, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

## (RESCISSION)

Of the funds appropriated for the Board for International Broadcasting, "Grants and expenses" in Public Law 97-161, \$2,000,000 are rescinded. *Ante*, p. 22.

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF  
CIVILIANS

## SALARIES AND EXPENSES

Funds appropriated under this head in Public Law 96-536 shall remain available until December 31, 1982. 94 Stat. 3166.

## THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL  
SERVICES

## DEFENDER SERVICES

For an additional amount for "Defender services", \$1,500,000, to remain available until expended.



CHAPTER III  
DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military personnel, Army", \$53,700,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military personnel, Navy", \$57,474,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military personnel, Marine Corps", \$37,145,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military personnel, Air Force", \$4,500,000.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve personnel, Army", \$9,000,000.

RESERVE PERSONNEL, NAVY

(TRANSFER OF FUNDS)

Funds made available for fiscal year 1982 for "Reserve personnel, Navy" may be transferred to the appropriation "Reserve personnel, Navy" for fiscal year 1979, in an additional amount of \$300,000, for a total not to exceed \$400,000 to liquidate obligations incurred and chargeable to that account.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve personnel, Marine Corps", \$2,000,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve personnel, Air Force", \$3,650,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard personnel, Army", \$9,600,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard personnel, Air Force", \$2,000,000.

## RETIRED MILITARY PERSONNEL

## RETIRED PAY, DEFENSE

For an additional amount for "Retired pay, Defense", \$47,685,000.

## OPERATION AND MAINTENANCE

## OPERATION AND MAINTENANCE, ARMY

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Army", \$4,300,000; and in addition, \$23,500,000 of which \$5,700,000 shall be derived by transfer from "Missile procurement, Army 1982/1984", \$6,300,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1982/1984", \$1,500,000 shall be derived by transfer from "Procurement of ammunition, Army, 1982/1984", and \$10,000,000 shall be derived by transfer from "Other procurement, Army, 1982/1984".

## OPERATION AND MAINTENANCE, NAVY

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Navy", \$117,400,000 of which \$19,600,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983", \$71,100,000 shall be derived by transfer from "Aircraft procurement, Navy, 1982/1984", \$7,500,000 shall be derived by transfer from "Weapons procurement, Navy, 1982/1984", and \$19,200,000 shall be derived by transfer from "Other procurement, Navy, 1982/1984"; and in addition, \$43,641,000 for liquidation of contract authority in "Operation and maintenance, Navy" for fiscal year 1980.

## OPERATION AND MAINTENANCE, MARINE CORPS

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Marine Corps", \$4,800,000; and in addition, \$2,000,000 which shall be derived by transfer from "Procurement, Marine Corps, 1982/1984".

## OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", \$23,000,000.

## OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", \$25,800,000.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", \$800,000.

**OPERATION AND MAINTENANCE, NAVY RESERVE**

For an additional amount for "Operation and maintenance, Navy Reserve", \$200,000.

**OPERATION AND MAINTENANCE, AIR FORCE RESERVE**

For an additional amount for "Operation and maintenance, Air Force Reserve", \$600,000.

**OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD**

For an additional amount for "Operation and maintenance, Army National Guard", \$1,500,000.

**OPERATION AND MAINTENANCE, AIR NATIONAL GUARD**

For an additional amount for "Operation and maintenance, Air National Guard", \$1,400,000.

**PROCUREMENT****AIRCRAFT PROCUREMENT, AIR FORCE**

For an additional amount for "Aircraft procurement, Air Force", \$120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or for fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration.

**OTHER PROCUREMENT, AIR FORCE**

For an additional amount for "Other procurement, Air Force", \$19,700,000, to remain available until September 30, 1984.

**PROCUREMENT, DEFENSE AGENCIES**

For an additional amount for "Procurement, defense agencies", \$6,500,000, to remain available until September 30, 1984.

**ADMINISTRATIVE PROVISIONS**

95 Stat. 1583.

The limitation contained in section 728 of the Department of Defense Appropriation Act, 1982, is increased to \$8,000,000.

95 Stat. 1586.

The limitation contained in section 747 of the Department of Defense Appropriation Act, 1982, is increased to \$31,000,000.

Appropriations or funds available to the Department of Defense may be transferred to fiscal year 1982 Department of Defense appropriations for Research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law.

All obligations incurred in anticipation of the appropriations and authority provided in this Act by the Department of Defense for pay and allowances for military personnel are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at

United States defense facilities in Europe when coal from the United States is available.

The transfer authority limitation contained in section 733 of Public Law 97-114 is increased to \$800,000,000.

95 Stat. 1584.

## CHAPTER IV

### DISTRICT OF COLUMBIA

#### DISTRICT OF COLUMBIA FUNDS

##### GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental direction and support", \$2,982,400, of which \$40,000 for the Council of the District of Columbia shall be available only upon enactment of D.C. Bill 4-35 or equivalent legislation.

##### ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic development and regulation", \$4,603,800.

##### PUBLIC SAFETY AND JUSTICE

##### (INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For an additional amount for "Public safety and justice", \$3,401,500, of which \$800,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council: *Provided*, That the limitation on funds available to the Chief of Police in fiscal year 1982 for the prevention and detection of crime under this heading in Public Law 97-91 is increased to \$300,000: *Provided further*, That of the funds appropriated under this heading for the Police and Fire Retirement System for fiscal year 1982 in Public Law 97-91, \$14,700,000 are rescinded.

95 Stat. 1175.

##### PUBLIC EDUCATION SYSTEM

For an additional amount for "Public education system", \$7,768,900, to be allocated as follows: \$7,574,900 for the District of Columbia Public Schools, and \$194,000 for the Public Library.

##### HUMAN SUPPORT SERVICES

##### (INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For an additional amount for "Human support services", \$40,044,400 of which \$1,900,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council: *Provided*, That of the amount appropriated under this heading from the revenue sharing trust fund for fiscal year 1982 in Public Law 97-91, \$227,400 are rescinded.

95 Stat. 1176.

## ENVIRONMENTAL SERVICES AND SUPPLY

For an additional amount for "Environmental services and supply", \$368,900.

## PERSONAL SERVICES

95 Stat. 1177.

For an additional amount for "Personal services", \$7,401,500, of which \$2,590,300, in addition to \$2,774,500 appropriated under this heading in Public Law 97-91, shall be solely for the Metropolitan Police Department.

## CAPITAL OUTLAY

For an additional amount for "Capital outlay", to remain available until expended, \$10,555,000: *Provided*, That \$521,200 shall be available for project management and \$477,800 for design by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor.

## WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For an additional amount for "Washington Convention Center Enterprise Fund", \$774,000.

## DIVISION OF EXPENSES

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

## ADMINISTRATIVE PROVISIONS

Title 11 of the District of Columbia Code is amended by adding the following new section:

## "§ 11-1732. Hearing commissioners

"(a) The chief judge of the superior court may appoint and may remove hearing commissioners who shall serve in the superior court and shall, in addition to the performance of the duties enumerated in subsection (c) of this section, perform such other duties as are not inconsistent with the Constitution and laws of the United States and of the District of Columbia, or as may be assigned by rule of the superior court.

"(b) No individual may be appointed or serve as a hearing commissioner under this section unless he or she has been a member of the bar of the District of Columbia for at least three years.

"(c) A hearing commissioner, when specifically designated by the chief judge of the superior court, may perform the following functions:

"(1) administer oaths and affirmations and take acknowledgments.

"(2) with the consent of the parties, determine conditions of release and pretrial detention pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedures).

"(3) with the consent of the parties, conduct preliminary examinations in all criminal cases to determine if there is

probable cause to believe that an offense has been committed and that the accused committed it.

“(4) with the consent of the parties involved make findings and recommendations in uncontested proceedings, and in contested hearings in the civil, criminal and family divisions of the superior court. A rehearing of the case, or a review of the hearing commissioner’s findings and recommendations, may be made by a judge of the appropriate division sua sponte. The findings and recommendations of the hearing commissioner shall when approved by a judge of the appropriate division constitute a final order of the superior court.

“(5) with the consent of the respondent make findings and recommendations in any nonjury traffic infraction matters in the superior court. A rehearing of the case, or a review of the hearing commissioner’s findings and recommendations, may be made by a judge of the superior court sua sponte. The findings and recommendations of the hearing commissioner when approved by a judge of the superior court shall constitute a final order of the superior court.

“(d) The provisions contained in this section shall remain in effect until September 30, 1983.” Effective date.

## CHAPTER V

### DEPARTMENT OF THE INTERIOR

#### BUREAU OF RECLAMATION

##### OPERATION AND MAINTENANCE

###### (TRANSFER OF FUNDS)

For an additional amount for “Operation and maintenance”, \$2,000,000, to remain available until expended, to be derived by transfer of unobligated balances in the construction program.

### DEPARTMENT OF ENERGY

#### OPERATING EXPENSES

##### ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for “Operating expenses, atomic energy defense activities”, \$57,000,000, to remain available until expended.

#### PLANT AND CAPITAL EQUIPMENT

##### ENERGY SUPPLY, RESEARCH AND DEVELOPMENT

###### (TRANSFER OF FUNDS)

For an additional amount for “Plant and capital equipment, energy supply, research and development”, \$14,000,000, to remain available until expended, which shall be derived by transfer from “Geothermal Resources Development Fund”.

## ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for "Plant and capital equipment, atomic energy defense activities", \$7,300,000, to remain available until expended.

## ADMINISTRATIVE PROVISIONS

Funds available to the Corps of Engineers under "Operation and maintenance, general" may be used to provide a lump-sum payment as compensation for seepage damages in the Sny Island Levee Drainage District, Illinois, currently estimated to be \$2,420,000, attributable to operation of the project.

95 Stat. 1135.

Appropriations for the Yatesville Lake construction project shall be made available for obligation in the amount designated for that project and without regard to any other designation in the joint explanatory statement of the committee of conference (Report No. 97-345), pursuant to title I of the Energy and Water Development Appropriation Act, 1982.

94 Stat. 1339.

Appropriations for the execution of work pursuant to section 202 of the 1981 Energy and Water Development Appropriations Act shall be made available for obligation in the amount designated for that purpose with emphasis on the Pineville and Barbourville, Kentucky and Williamson, West Virginia project components and without regard to any other designation in the joint explanatory statement of the committee of conference (Report No. 97-345) pursuant to title I of the Energy and Water Development Appropriations Act, 1982. Flood control measures authorized by section 202 of the 1981 Energy and Water Development Appropriations Act involving high levees and floodwalls in urban areas should provide for a standard project flood level of protection where the consequences from overtopping caused by large floods would be catastrophic.

5 USC 5343 note.

Without regard to any other provision of law limiting the amounts payable to prevailing wage rate employees, United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules shall be paid, beginning the effective date of each annual wage survey in the region after the date of enactment of this Act, wages as determined by the Department of Defense Wage Fixing Authority to be consistent with wages of the Department of Energy and the Department of the Interior employees performing similar work in the corresponding area whose wage rates are established in accordance with section 9(b) of Public Law 92-392 or section 704 of Public Law 95-454.

5 USC 5343  
notes.

## CHAPTER VI

## BILATERAL ECONOMIC ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

## AGENCY FOR INTERNATIONAL DEVELOPMENT

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", \$1,031,000.

## OVERSEAS AND SPECIAL DEVELOPMENT ACTIVITIES

## (FOREIGN CURRENCY PROGRAM)

For an additional amount for necessary expenses as authorized by section 612 of the Foreign Assistance Act of 1961, as amended, \$920,000 in foreign currencies which the Department of the Treasury declares to be excess to the normal requirements of the United States, to remain available until expended.

22 USC 2362.

## LEBANON EMERGENCY RELIEF

## (TRANSFER OF FUNDS)

For expenses necessary to carry out the provisions of section 495J of the Foreign Assistance Act of 1961, \$50,000,000 which shall be derived by transfer from the Department of State, "Migration and Refugee Assistance", to remain available until expended: *Provided*, That of such amount not less than \$10,000,000 shall be available only for the American University of Beirut.

*Ante*, p. 138.

## ECONOMIC SUPPORT FUND

## CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, \$350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than \$20,000,000 for the Eastern Caribbean; not less than \$41,000,000 for the Dominican Republic; not less than \$10,000,000 for Haiti; not less than \$50,000,000 for Jamaica; not less than \$10,000,000 for Belize; not less than \$70,000,000 for Costa Rica; not more than \$10,000,000 for Guatemala; not less than \$35,000,000 for Honduras; not more than \$75,000,000 for El Salvador; not less than \$2,000,000 for the American Institute for Free Labor Development; not less than \$2,000,000 for the Inter-American Foundation; and \$25,000,000 unallocated: *Provided further*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

22 USC 2346.

22 USC 2412.

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any



attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—*

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

50 USC 401 note.  
22 USC 2151  
note.  
50 USC 1541  
note.

#### MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, \$2,000,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and \$25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: \$10,000,000 shall be available only for Honduras; \$5,000,000 shall be available only for Somalia; \$2,000,000 shall be available only for Costa Rica; and, \$10,000,000 shall be available only for Portugal.

22 USC 2311.

## INTERNATIONAL MILITARY EDUCATION AND TRAINING

For an additional amount for necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, \$3,512,000. 22 USC 2347.

## FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, \$50,000,000, which sum shall be available only for Sudan. 22 USC 2763, 2764.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made \$50,000,000 of such gross obligations during such fiscal year. 95 Stat. 1653.

## SPECIAL DEFENSE ACQUISITION FUND

## (LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, \$125,000,000.

## DEPARTMENT OF STATE

## MIGRATION AND REFUGEE ASSISTANCE

The funds appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1982, for resettlement services and facilities for refugees and displaced persons in Africa shall remain available until expended. 95 Stat. 1647.

## CHAPTER VII

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## HOUSING PROGRAMS

## ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further*, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds \$3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such \$3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: *Provided further*, That the first \$89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section Ante, p. 183.

42 USC 1437l.

14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act.

## INDEPENDENT AGENCIES

### SELECTIVE SERVICE SYSTEM

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$150,000: *Provided*, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

### VETERANS ADMINISTRATION

#### MEDICAL AND PROSTHETIC RESEARCH

##### (TRANSFER OF FUNDS)

For an additional amount for "Medical and prosthetic research", \$4,198,000, to remain available until September 30, 1983, and which shall be derived by transfer from "Medical care".

#### MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

##### (TRANSFER OF FUNDS)

For an additional amount for "Medical administration and miscellaneous operating expenses", \$8,000,000, to remain available until September 30, 1983, and which shall be derived by transfer from "Medical care".

### GRANTS TO THE REPUBLIC OF THE PHILIPPINES

##### (TRANSFER OF FUNDS)

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, \$500,000, to remain available until September 30, 1983, and which shall be derived by transfer from "Medical care".

### ADMINISTRATIVE PROVISIONS

95 Stat. 1438.

The limitation in section 501(40) of title V of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, on the Department of Housing and Urban Development's data processing services is increased from \$34,000,000 to \$35,500,000.

Gross loan commitments for 1982 to be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) shall not be subject to the rules of the Department of Housing and Urban Development published on May 11, 1982.

## CHAPTER VIII

## DEPARTMENT OF THE INTERIOR

## BUREAU OF LAND MANAGEMENT

## MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", \$55,000,000: *Provided*, That notwithstanding any other provisions of law, the Secretary of the Interior and Secretary of Agriculture are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction. In addition, any contracts or agreements with the jurisdictions for fire management services listed above which are previously executed shall remain valid.

## LAND ACQUISITION

For an additional amount for "Land acquisition", \$700,000: *Provided*, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with \$1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

43 USC 1783.  
95 Stat. 1391.

## UNITED STATES FISH AND WILDLIFE SERVICE

## RESOURCE MANAGEMENT

For an additional amount for "Resource management", \$1,800,000.

## CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", \$4,000,000, of which not less than \$2,500,000 shall be available for construction and equipping, at Merritt Island NWR, Florida, the Scott J. Manness administrative/visitor facility and the Beau W. Sauselein maintenance center.

## NATIONAL PARK SERVICE

## OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the national park system", \$2,200,000.

## CONSTRUCTION

For an additional amount for "Construction", \$10,680,000, to remain available until expended: *Provided*, That \$2,000,000 for reconstruction of the Filene Center at the Wolf Trap Farm Park for the Performing Arts shall become available for obligation only upon enactment of authorizing legislation: *Provided further*, That notwithstanding any other provisions of law, the Park Service, using the United States Army Corps of Engineers, shall begin providing hydraulic fill to the Sandy Hook area of the Gateway National

Recreation Area within 60 days after enactment of this legislation: *Provided further*, That the Park Service shall obligate by November 1, 1982, out of funds available, no more than \$160,000 for the rehabilitation of the mounted police training barn at Rock Creek Park Horse Center for use by the National Center for Therapeutic Riding, as directed by the managers of the Committee of Conference on the bill making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1981 (Public Law 96-514).

94 Stat. 2957.

#### LAND AND WATER CONSERVATION FUND

##### (RESCISSION)

The contract authority provided for fiscal year 1982 by 16 U.S.C. 4601-10a. 4601-10a is rescinded.

16 USC 4601-10a.

#### LAND ACQUISITION AND STATE ASSISTANCE

For an additional amount for "Land acquisition and State assistance", \$30,000,000, to remain available until expended, of which \$13,500,000 is for Big Cypress National Preserve, Florida; \$4,500,000 is for Big Thicket National Preserve, Texas; \$5,500,000 is for Cape Cod National Seashore, Massachusetts; \$1,000,000 is for the Cumberland Island National Seashore, Georgia; and \$5,500,000 for the Lassen Volcanic National Park, California.

#### GEOLOGICAL SURVEY

##### SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", \$6,200,000.

##### BUREAU OF MINES

##### MINES AND MINERALS

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Mines and minerals", \$5,064,000, to remain available until expended, of which \$991,000 shall be derived by transfer from "Drainage of anthracite mines" to carry out the purposes of section 2(b) of Public Law 96-543.

94 Stat. 3211.

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

##### ABANDONED MINE RECLAMATION FUND

For an additional amount for "Abandoned Mine Reclamation Fund", \$13,251,000 for the purposes of section 406 of Public Law 95-87.

30 USC 1236.

##### BUREAU OF INDIAN AFFAIRS

##### OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", \$18,100,000: *Provided*, That \$11,100,000 of such amount shall be

immediately available for transfer to the State of Alaska to assist in the basic operation and maintenance during the period ending September 30, 1984, of formerly Bureau-owned schools which have been transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to such schools on the same basis as other public schools: *Provided further*, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "INDIAN AFFAIRS" in the paragraph headed "TRIBAL TRUST FUNDS" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:

95 Stat. 1399.  
25 USC 155b.

"No funds shall be deposited in such 'Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

Funds, transfer.

#### CONSTRUCTION

For an additional amount for "Construction", \$1,000,000, to remain available until expended.

## OFFICE OF TERRITORIAL AFFAIRS

## ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of territories", \$3,402,000, to remain available until expended.

## TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands", \$24,957,000, to remain available until expended, of which \$1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That \$19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided further*, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further*, That \$2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further*, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: *Provided further*, That of the remaining funds, \$2,500,000 shall be transferred to the "Administration of territories" account for technical assistance activities, to remain available until expended.

## OFFICE OF THE SECRETARY

## INSPECTOR GENERAL

For additional amount for "Inspector General", \$3,150,000.

## RELATED AGENCIES

## DEPARTMENT OF AGRICULTURE

## FOREST SERVICE

## NATIONAL FOREST SYSTEM

For an additional amount for "National forest system", \$64,900,000.

## CONSTRUCTION AND LAND ACQUISITION

For an additional amount for "Construction and land acquisition", \$3,000,000, to remain available until expended, for partial payment, subject to the execution of a memorandum of understanding by September 30, 1982 between the Secretary of the Interior, the

Secretary of Agriculture, and the Chugach Natives, Incorporated, for the settlement of land claims of the Chugach Natives, Incorporated as authorized by section 1302(h) and section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204): *Provided*, That in the memorandum of understanding, Chugach Natives, Incorporated shall generally describe the lands to be conveyed to it in satisfaction of all its entitlements.

16 USC 3192; 94 Stat. 2531.  
43 USC 1621.

The limitation on obligations provided for construction of forest roads by timber purchasers under this head in Public Law 97-100 shall remain available without fiscal year limitation.

95 Stat. 1405.

#### ADMINISTRATIVE PROVISION

Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Forest Service, U.S. Department of Agriculture shall not exceed \$400 annually.

5 USC 5901 note.

#### DEPARTMENT OF ENERGY

##### FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", \$1,080,000, to remain available until expended: *Provided*, That there are transferred to, and vested in, the Secretary of the Interior all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to (1) the Act of May 16, 1910, and other authorities formerly exercised by the Bureau of Mines, but limited to research and development relating to increased efficiency of production technology of solid fuel minerals; (2) section 908 of the Surface Mining Control and Reclamation Act of 1977, relating to research and development concerning alternative coal mining technologies (30 U.S.C. 1328); (3) sections 5(g)(2), 8(a)(4), 8(a)(9), 27(b)(2)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(g)(2) and 1337(a)(4) and 1337(a)(9)); and (4) section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213): *Provided further*, That the personnel employed, personnel positions, equipment, facilities, and unexpended balances of the aforementioned transferred programs shall be merged with the "Mines and minerals" account of the Bureau of Mines.

42 USC 7152 note.

43 USC 1353.

##### FOSSIL ENERGY CONSTRUCTION

##### (DEFERRAL)

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), \$64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, \$28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; \$22,000,000 shall be used for the termi-

95 Stat. 1407.



nation costs of SRC-I; and \$5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned activities.

#### ECONOMIC REGULATION

##### (DEFERRAL)

95 Stat. 14.

Of the \$38,200,000 made available for "Economic regulation" until September 30, 1982, in Public Law 97-12, \$3,000,000 shall not become available for obligation until October 1, 1982, and shall remain available for obligation until September 30, 1983.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### HEALTH SERVICES ADMINISTRATION

##### INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", \$11,200,000, to remain available until expended.

#### NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

##### SALARIES AND EXPENSES

95 Stat. 1411.

Of the funds made available under this heading in Public Law 97-100, \$7,831,000 for relocation operations shall remain available until expended.

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### NATIONAL ENDOWMENT FOR THE ARTS

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$246,000, which shall be available for administering the functions of the Act, to remain available for obligation until September 30, 1983.

#### INSTITUTE OF MUSEUM SERVICES

95 Stat. 1414.

Of the funds made available under this heading in Public Law 97-100, \$720,000 shall remain available for obligation until September 30, 1983.

### FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

#### PERMITTING AND ENFORCEMENT

##### (RESCISSION)

95 Stat. 1415.

Of the funds appropriated under this head in the Interior and Related Agencies Appropriations Act, 1982 (Public Law 97-100), \$8,000,000 is rescinded.

## ADMINISTRATIVE PROVISION

None of the funds provided by this chapter or by Public Law 97-100 shall be used to evaluate, consider, process or award oil, gas or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7 and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

95 Stat. 1391.

## CHAPTER IX

## DEPARTMENT OF LABOR

## EMPLOYMENT AND TRAINING ADMINISTRATION

## EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for "Employment and training assistance", \$4,000,000, to remain available until September 30, 1983, and which shall be available only for construction of facilities at the Joliet, Illinois Job Corps Center.

## (RESCISSION)

Of the amounts available for obligation in fiscal year 1982 for "Employment and training assistance", \$48,186,000 are rescinded.

## COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", \$210,572,000: *Provided*, That not more than \$46,325,840 shall be for grants to States under paragraph (3) of section 506(a) of the Older Americans Act of 1965, as amended.

42 USC 3041e.

## GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", \$20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

## ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Funds appropriated under this head shall be available for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation.

## LABOR-MANAGEMENT SERVICES ADMINISTRATION

## SALARIES AND EXPENSES

## (TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", \$400,000, to be derived by transfer from Employment and Training Administration, "Employment and training assistance".

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

## SALARIES AND EXPENSES

95 Stat. 1183. In addition to the amounts made available under Public  
 29 USC 672. Law 97-92, making further continuing appropriations for fiscal year  
 1982, for grants to States under section 23(g) of the Occupational  
 Safety and Health Act of 1970, \$3,800,000 shall be available for such  
 expenses: *Provided*, That none of the funds made available under  
 this head for fiscal year 1982 may be obligated or expended to  
 enforce or prescribe as a condition for initial, continuing, or final  
 29 USC 667. approval of State plans under section 18 of the Occupational Safety  
 and Health Act of 1970, State administrative or enforcement staff-  
 ing levels which are greater than levels which are determined by  
 the Secretary to be equivalent to Federal staffing levels.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## CENTERS FOR DISEASE CONTROL

## PREVENTIVE HEALTH SERVICES

For an additional amount for "Preventive health services", \$11,500,000.

## ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

## ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for "Alcohol, drug abuse, and mental health", \$10,000,000.

## HEALTH RESOURCES ADMINISTRATION

## HEALTH RESOURCES

42 USC 293. For an additional amount for "Health resources", \$7,000,000, to  
 remain available until expended for a grant for construction or  
 expansion of a teaching facility under section 720(a)(1) of the Public  
 Health Service Act.

42 USC 300f-1. Funds appropriated for fiscal year 1982 pursuant to section 1537  
 of the Public Health Service Act shall not be denied to a health  
 systems agency solely because it fails to meet the numerical criteria  
 for staffing under section 1512(b)(2)(B) of the Act if the minimum  
 size of its professional staff is three, or, if the quotient of the  
 population (rounded to the nearest three hundred thousand) of the  
 health service area which the agency serves divided by three hun-

dred thousand is greater than three, the minimum size of the professional staff is the lesser of (i) such quotient, or (ii) twenty-five.

#### ASSISTANT SECRETARY FOR HEALTH

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" for carrying out title XX of the Public Health Service Act, \$10,313,000: *Provided*, That section 2008(g) of the Public Health Service Act does not apply to this program.

95 Stat. 578.  
42 USC 300z.  
95 Stat. 589.  
42 USC 300z-7.

#### HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For an additional amount for "Health Maintenance Organization Loan and Loan Guarantee Fund", \$17,500,000, to be used solely for obligations resulting from defaulted loans guaranteed by the fund.

#### HEALTH CARE FINANCING ADMINISTRATION

##### GRANTS TO STATES FOR MEDICAID

For an additional amount for "Grants to States for Medicaid", \$112,000,000, to remain available until expended.

#### SOCIAL SECURITY ADMINISTRATION

##### LIMITATION ON ADMINISTRATIVE EXPENSES

The limitation on administrative expenses is increased to \$3,059,900,000, of which \$123,436,000 for automatic data processing and telecommunication activities and \$24,591,000 for construction activities shall remain available until expended.

#### DEPARTMENT OF EDUCATION

##### COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For an additional amount for "Compensatory education for the disadvantaged" for carrying out title I, part A, subpart 1, of the Elementary and Secondary Education Act, as amended, \$148,000,000 to remain available until September 30, 1983: *Provided*, That in addition to the amount otherwise made available for making allocations under such subpart for the 1982-1983 school year, the amount appropriated herein shall be allocated to each county on the basis of the 1970 census data or the 1980 census data whichever yields the higher allocation: *Provided further*, That if the amount appropriated herein is insufficient to make such higher allocations, the allocation to each county shall be ratably reduced: *Provided further*, That in the case of Puerto Rico, poverty data gathered by the Bureau of the Census in the 1975 Survey of Income and Education shall be used if 1980 census data are not available.

20 USC 2711.

##### SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Funds appropriated in Public Law 94-303 for fiscal year 1976 payments under subparagraphs (A), (B), (C), and (D) of section 305 of

90 Stat. 597.

20 USC 238 and  
note, 240, 241-1.

20 USC 238.  
95 Stat. 1183.  
20 USC 241-1.

20 USC 241-1.

the Education Amendments of 1974 remaining available after all claims have been paid shall be available, without fiscal year limitation, for fiscal year 1982 payments under section 3 of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), in accordance with Public Law 97-92, as amended, and funds made available in fiscal year 1982 for section 7 of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), shall remain available until September 30, 1983.

For an additional amount under section 7 of Public Law 874, Eighty-first Congress, to be made available to the Waubay School District, Waubay, South Dakota, \$200,000.

#### EDUCATION FOR THE HANDICAPPED

20 USC 1423.  
20 USC 1431,  
1441.

For an additional amount for "Education for the handicapped", \$26,500,000 for carrying out the Education of the Handicapped Act, of which \$7,200,000 shall be for part C, section 623, \$15,700,000 shall be for part D, and \$3,600,000 shall be for part E.

#### VOCATIONAL AND ADULT EDUCATION

20 USC 2401.  
20 USC 2305.

For an additional amount for "Vocational and adult education", \$2,520,000 to remain available until September 30, 1983 for carrying out the Vocational Education Act, of which \$1,000,000 shall be for part B, subpart 2, section 171(a)(2), and \$1,520,000 shall be for part A, subpart 1, section 105: *Provided*, That \$6,500,000 appropriated for fiscal year 1982 for State advisory councils under section 105 of the Vocational Education Act shall be used to provide to each State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Northern Mariana Islands an amount equal to the amount it received in the previous fiscal year.

#### STUDENT FINANCIAL ASSISTANCE

20 USC 1070a.  
20 USC 1070b.

For an additional amount for "Student financial assistance", \$217,000,000 to remain available until September 30, 1983 for carrying out the Higher Education Act, of which \$140,000,000 shall be for title IV, part A, subpart 1 and \$77,000,000 shall be for title IV, part A, subpart 2.

#### HIGHER AND CONTINUING EDUCATION

20 USC 1051.  
95 Stat. 446.  
  
20 USC 1069c.

For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, \$10,000,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which \$5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided*, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further*, That

the remaining \$5,000,000 shall enable the Secretary to award grants under parts A and B of title III of the Act to eligible institutions which had an application approved, but did not receive a grant in fiscal year 1982: *Provided further*, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further*, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, \$300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

20 USC 1057,  
1060.

20 USC 1069c.

20 USC 1060.

#### HIGHER EDUCATION FACILITIES LOAN AND INSURANCE

For an additional amount for "Higher education facilities loan and insurance", \$9,746,000.

#### COLLEGE HOUSING LOANS

The college housing loan program shall operate under the terms and conditions as contained in H.R. 4560 as passed by the House of Representatives on October 6, 1981, except that the gross commitments for the principal amount of direct loans shall be \$40,000,000.

#### SPECIAL INSTITUTIONS

##### AMERICAN PRINTING HOUSE FOR THE BLIND

For an additional amount for the "American Printing House for the Blind", \$200,000.

##### NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For an additional amount for the "National Technical Institute for the Deaf", \$1,052,000.

##### GALLAUDET COLLEGE

For an additional amount for "Gallaudet College", \$2,080,000.

##### HOWARD UNIVERSITY

For an additional amount for "Howard University", \$5,808,000 of which \$810,000 shall be for construction and shall remain available until expended.

**OFFICE OF THE INSPECTOR GENERAL****SALARIES AND EXPENSES**

For an additional amount for “Office of the Inspector General, salaries and expenses”, \$430,000.

**RELATED AGENCIES****RAILROAD RETIREMENT BOARD****DUAL BENEFITS PAYMENTS ACCOUNT**

45 USC 231n.  
95 Stat. 1183.  
For an additional amount for payment of windfall benefits, as provided under section 15(d) of the Railroad Retirement Act of 1974, \$11,000,000, which, together with the amounts appropriated in Public Law 97-92, as amended, shall be the maximum amount available for payments through September 30, 1982.

**SOLDIERS’ AND AIRMEN’S HOME****OPERATION AND MAINTENANCE**

For an additional amount for “Operation and maintenance”, \$796,000, to be paid from the Soldiers’ and Airmen’s Home permanent fund.

**CAPITAL OUTLAY**

For renovation of buildings and facilities, including plans and specifications, to be paid from the Soldiers’ and Airmen’s Home permanent fund, \$953,000, to remain available until expended.

**CHAPTER X****LEGISLATIVE BRANCH****SENATE****SALARIES, OFFICERS AND EMPLOYEES****OFFICES OF THE MAJORITY AND MINORITY LEADERS**

For an additional amount for “Offices of the Majority and Minority Leaders”, \$120,000.

**ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO  
SENATORS**

For an additional amount for “Administrative, clerical, and legislative assistance to Senators”, \$80,000.

**OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY**

For an additional amount for “Offices of the Secretaries for the Majority and Minority”, \$100,000.

## CONTINGENT EXPENSES OF THE SENATE

## MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", \$938,000.

## ADMINISTRATIVE PROVISIONS

SEC. 101. Effective October 1, 1981, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of ten million but less than eleven million, the population of said State having exceeded ten million inhabitants.

Effective date.  
2 USC 61-1 note.

SEC. 102. The third sentence of section 105(b) of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 123b(b)) is amended by striking out "and committees of the Senate" and inserting in lieu thereof "committees of the Senate, the Secretary of the Senate, and the Sergeant at Arms of the Senate".

SEC. 103. Clause (1) of section 117 of Public Law 97-51 (2 U.S.C. 61f-8) is amended to read as follows:

95 Stat. 964.

"(1) the procurement of the services, on a temporary basis, of individual consultants, or organizations thereof, with the prior consent of the Committee on Rules and Administration; such services may be procured by contract with the providers acting as independent contractors, or in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate; and any such contract shall not be subject to the provisions of section 5 of title 41, United States Code, or any other provision of law requiring advertising; and".

SEC. 104. (a) Paragraph (2) of subsection (b) of section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended to read as follows:

"(2) In the event that the term of office of a Senator begins after the first month of any such calendar year or ends (except by reason of death, resignation, or expulsion) before the last month of any such calendar year, the aggregate amount available to such Senator for such year shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month."

(b) The amendment made by subsection (a) of this section shall be effective on and after January 1, 1982.

Effective date.  
2 USC 58 note.

SEC. 105. (a) The first sentence of the first section of the joint resolution relating to the payment of salaries of employees of the Senate, approved April 20, 1960 (Public Law 86-426; 2 U.S.C. 60c-1), is amended by striking out "Senators and officers and employees" and inserting in lieu thereof "the Vice President, Senators, and officers and employees".

(b) The third sentence of section 104 of title 3, United States Code, is repealed.

(c) Amendments and repeals made by the preceding provisions of this section shall be effective in the case of compensation payable for months after December 1981.

Effective date.  
2 USC 60c-1  
note.

SEC. 106. If at the close of any fiscal year there is an unexpended balance of funds which were appropriated for such year (or for prior

2 USC 68d.



fiscal years) and which are subject to disbursement by the Secretary of the Senate for any purpose, then, if such unexpended balance is by law rescinded, any unpaid obligations chargeable to the balance so rescinded (or to appropriations for such purpose for prior years) shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

2 USC 61b-3  
note.

SEC. 107. For the fiscal year ending September 30, 1982, and for each of the next three succeeding fiscal years, the Secretary of the Senate is authorized to pay to the General Services Administration such amounts as may be necessary to reimburse the Archivist of the United States for expenditures made to conduct a project to provide for the proper preservation of the Senate's records of continuing value, which expenditures cannot be defrayed from funds otherwise available for such purpose. The aggregate of the sums paid to the General Services Administration under this section shall not exceed \$300,000. Amounts paid under this section shall be paid from the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

#### HOUSE OF REPRESENTATIVES

##### PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Elizabeth C. Adinolfi, sister of William R. Cotter, late a Representative from the State of Connecticut, \$60,662.50. For payment to Emily Jean Spencer Ashbrook, widow of John M. Ashbrook, late a Representative from the State of Ohio, \$60,662.50.

##### ALLOWANCES AND EXPENSES

For an additional amount for "Official expenses of Members", \$5,987,000.

##### ARCHITECT OF THE CAPITOL

##### CAPITOL POWER PLANT

For an additional amount for "Capitol Power Plant", \$1,200,000.

##### COPYRIGHT ROYALTY TRIBUNAL

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$51,000.

**ADMINISTRATIVE PROVISIONS**

Section 101(c) of Public Law 97-51 is amended by inserting before the second semicolon the following: “; except that in applying the provisions under the heading ‘Capitol Police Board’ the term ‘for obligations for fiscal years 1982 and 1983’ shall be substituted for the term ‘for obligations of Fiscal Year 1982’ and”. 95 Stat. 958.

Not to exceed \$125,000 of the unobligated balance of that part of the appropriation “Salaries and expenses, Library of Congress” initially for the fiscal year 1980 and continued until September 30, 1982, for moving costs to the James Madison Memorial Building, is hereby further continued available until September 30, 1983.

**CHAPTER XI****MILITARY CONSTRUCTION****MILITARY CONSTRUCTION, AIR FORCE**

For an additional amount for “Military construction, Air Force”, \$12,700,000, to remain available until September 30, 1986.

**FAMILY HOUSING, DEFENSE**

For an additional amount for “Family housing, Defense”, \$32,300,000 (and an increase of \$32,300,000 in the limitation for operation, maintenance).

**CHAPTER XII****DEPARTMENT OF TRANSPORTATION****COAST GUARD****OPERATING EXPENSES**

For an additional amount for “Operating expenses”, \$30,500,000.

**ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS**

Of the unobligated balances available under this heading, not to exceed \$16,000,000 shall be reprogrammed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska.

**ALTERATION OF BRIDGES**

For an additional amount for “Alteration of bridges”, \$3,000,000, to remain available until expended.

**FEDERAL AVIATION ADMINISTRATION****OPERATIONS****(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for “Operations”, \$93,200,000, of

which \$57,500,000 shall remain available until September 30, 1983, together with not to exceed \$9,945,000 to remain available until expended and to be derived from the Airport and Airway Trust Fund for reimbursement of expenses incurred by certificated air carriers in the security screening of passengers moving in foreign air transportation and not to exceed \$10,000,000 to continue to remain available until expended and to be derived by transfer from the appropriation "Construction, Metropolitan Washington airports": *Provided*, That not to exceed \$10,000,000 shall be available for reimbursement to the Department of Defense to finance personnel compensation for military controllers.

#### RESEARCH, ENGINEERING AND DEVELOPMENT

##### (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Research, engineering and development", \$16,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended.

#### FEDERAL HIGHWAY ADMINISTRATION

##### INTERSTATE TRANSFER GRANTS—HIGHWAYS

For an additional amount for "Interstate transfer grants—highways", \$112,500,000, to remain available until expended.

##### ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

For an additional amount for "Access highways to public recreation areas on certain lakes", \$6,875,000, to remain available until expended.

Appropriations under this heading for fiscal year 1980 shall remain available until September 30, 1984.

#### FEDERAL RAILROAD ADMINISTRATION

##### RAIL SERVICE ASSISTANCE

For an additional amount for "Rail service assistance", \$1,355,000 for payment to the Secretary of the Treasury for debt reduction, and together with the appropriations under "Rail service assistance" contained in Public Law 97-102, to remain available until expended.

Unobligated balances of appropriations under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended.

##### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Notwithstanding any other provision of law, the National Railroad Passenger Corporation (the "Corporation") shall be exempt from any taxes or other fees imposed by any State, political subdivi-

95 Stat. 1449.

45 USC 546b.

sion of a State, or local taxing authority which are levied on the Corporation, or any railroad subsidiary thereof, from and after October 1, 1981, including such taxes and fees levied after September 30, 1982: *Provided, however,* That notwithstanding any provision of law, the Corporation shall not be exempt from any taxes or other fees which it is authorized to pay as of the date of enactment of this provision. Taxes and fees levied on the Corporation or any railroad subsidiary thereof by States, political subdivisions of States, or local taxing authorities with respect to periods beginning prior to October 1, 1981, shall be payable in proportion to the part of the relevant tax period which elapsed prior to such date. Notwithstanding the provision of 28 U.S.C. § 1341, the United States district courts shall have original jurisdiction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.

#### REDEEMABLE PREFERENCE SHARES

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505 through 507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed \$20,000,000 to remain available until expended. Notwithstanding any other provision of law, the authority granted under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior Acts shall continue during the period in which appropriations remain available for this purpose under the heading: "Department of the Treasury, Office of the Secretary, Investment in Fund Anticipation Notes".

45 USC 822,  
825-827, 829.  
45 USC 821, 822  
and note, 825.

#### SETTLEMENTS OF RAILROAD LITIGATION

For liquidation of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, \$639,424,275, to remain available until expended.

45 USC 720.

#### COMMUTER RAIL SERVICE

##### (INCLUDING DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D82-243 relating to the Federal Railroad Administration, commuter rail service, as set forth in the message of April 23, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended \$5,000,000, and for necessary expenses to carry out section 1139(b) of Public Law 97-35, \$5,000,000, to remain available until expended.

95 Stat. 652.

## RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

For an additional amount for "Railroad rehabilitation and improvement financing funds", \$24,766,000, to remain available until expended, for payment to the Secretary of the Treasury for debt reduction: *Provided*, That total commitments to guarantee loans shall not exceed \$100,000,000 of contingent liability for loan principal during fiscal year 1982.

## RAIL LABOR ASSISTANCE

## (TRANSFER OF FUNDS)

45 USC 771.  
95 Stat. 669.

For payment of remaining benefits under title V of the Regional Rail Reorganization Act of 1973, as authorized by section 1144 of the Northeast Rail Service Act of 1981, \$9,000,000, to remain available until expended, to be derived from the unobligated balances of "Payments for purchase of Conrail securities": *Provided*, That notwithstanding any other provision of law, funds appropriated herein shall not be available for payment of any benefit with respect to any arbitration claim filed after September 30, 1982.

## URBAN MASS TRANSPORTATION ADMINISTRATION

## URBAN DISCRETIONARY GRANTS

For an additional amount for "Urban discretionary grants", \$15,000,000, to remain available until expended.

From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants, advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.

## INTERSTATE TRANSFER GRANTS—TRANSIT

For an additional amount for "Interstate transfer grants—transit", \$22,000,000, to remain available until expended.

## RELATED AGENCIES

## NATIONAL TRANSPORTATION SAFETY BOARD

## EMERGENCY FUND

For necessary expenses, not otherwise provided for, of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); \$1,000,000, to remain available until expended.

## DEPARTMENT OF THE TREASURY

## OFFICE OF THE SECRETARY

## INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, \$20,000,000 to remain available until expended. Unexpended balances under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior Acts are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended.

45 USC 829.

45 USC 821, 822  
and note, 825.

## CHAPTER XIII

## DEPARTMENT OF THE TREASURY

## BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

## POSTAL SAVINGS SYSTEM LIQUIDATION

For necessary funds to be held in trust for payment of claims by or on behalf of depositors to the Postal savings system, as authorized by section 2 of Public Law 92-117, approved August 13, 1971, \$200,000.

31 USC 725p  
note.

## PAYMENT TO THE CITY OF FAIRFAX, VIRGINIA

For payment to the city of Fairfax, Virginia, in accordance with Public Law 96-559, \$41,958.78.

94 Stat. 3264.

## INTERNAL REVENUE SERVICE

## SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$8,084,000: *Provided*, That none of the funds appropriated by this Act shall be used to impose or assess any tax due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum.

26 USC 4161,  
4181.

## TAXPAYER SERVICE AND RETURNS PROCESSING

For an additional amount for "Taxpayer service and returns processing", \$72,354,000, of which \$340,000 shall be used for the tax counseling for the elderly program (TCE) to retroactively reimburse volunteer tax counselors for personal and administrative expenses incurred during the past 1981 filing season.

## EXAMINATIONS AND APPEALS

For an additional amount for "Examinations and appeals", \$15,563,000.

## INVESTIGATIONS AND COLLECTIONS

For an additional amount for "Investigations and collections", \$19,121,000.

## ADMINISTRATIVE PROVISION

*Ante*, p. 22.

None of the funds provided in this Act or Public Law 97-161 shall be used for the redecoration, refurbishment, or remodeling of the office of the Commissioner of the Internal Revenue Service or the office of the Chief Counsel of the Internal Revenue Service.

## UNITED STATES SECRET SERVICE

## SALARIES AND EXPENSES

95 Stat. 14.

For an additional amount for "Salaries and expenses", \$8,998,000: *Provided*, That \$1,400,000 appropriated in Public Law 97-12, for the costs of construction and installation of a White House complex security system shall remain available until expended: *Provided further*, that \$1,518,000 appropriated herein for expansion of the Beltsville, Maryland, training facility shall remain available until expended.

## ADMINISTRATIVE PROVISION

47 FR 9823.

None of the funds made available by this Act shall be available to initiate, implement, or administer the program proposed by the Treasury Department to modify service charges for allotments of pay to savings accounts of Federal civilian employees as proposed in the Federal Register, volume 47, No. 45, dated March 8, 1982: *Provided*, That none of the funds made available by this or any other Act may be used to place the United States Secret Service, the United States Customs Service, and the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

## UNITED STATES POSTAL SERVICE

## PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for payment to the Postal Service Fund for revenue forgone on free and reduced rates of mail, pursuant to 39 U.S.C. 2401(c), \$39,000,000.

## PAYMENT TO THE POSTAL SERVICE FUND

## (RESCISSION)

95 Stat. 1183.

Of the funds provided for the "Payment to the Postal Service Fund" for fiscal year 1982 in Public Law 97-92, making further continuing appropriations for fiscal year 1982, \$208,660,000 are rescinded.

## INDEPENDENT AGENCIES

## GENERAL SERVICES ADMINISTRATION

## FEDERAL BUILDINGS FUND

## LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1982, \$857,000 shall be made available for such purposes and shall remain available until expended for the construction and acquisition of facilities, as follows:

## Payment of Construction Claims:

Alaska: Juneau, United States Post Office and Courthouse, \$11,300;

Florida: Fort Lauderdale, Courthouse and Federal Office Building and Parking Facility, \$643,000;

Mississippi: Jackson, Federal Office Building, \$202,700.

*Provided*, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in other such projects but by not to exceed 10 per centum: *Provided further*, That claims against the Government less than \$10,000 arising from direct construction projects, acquisitions of buildings, and purchase contract projects pursuant to Public Law 92-313 may be liquidated with prior notification of the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects: *Provided further*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1982, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of \$1,869,168,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

40 USC 602a, 603  
and note, 606,  
611.

## NATIONAL ARCHIVES AND RECORDS SERVICE

## OPERATING EXPENSES

For an additional amount for "Operating expenses", \$4,100,000, to remain available until expended, of which \$1,500,000 shall be for allocations and grants for historical publications and records, and \$600,000 shall be for the preservation of House and Senate historical records.

## OFFICE OF PERSONNEL MANAGEMENT

## PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service Retirement and Disability Fund", \$303,257,000.

## GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For an additional amount for "Government payment for annuitants, employees health benefits", \$303,806,000.



**TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR  
1982**

For additional amounts for appropriations for the fiscal year 1982,  
for increased pay costs authorized by or pursuant to law as follows:

**LEGISLATIVE BRANCH****SENATE**

“Salaries, officers and employees”, \$8,771,000;  
“Office of the Legislative Counsel of the Senate”, \$66,000;  
“Office of Senate Legal Counsel”, \$13,000;  
“Senate Policy Committees”, \$110,000;  
“Inquiries and investigations”, \$1,975,000;  
“Folding documents”, \$6,000;

**HOUSE OF REPRESENTATIVES**

“House leadership offices”, \$141,000;  
“Salaries, officers and employees”, \$1,651,000;  
“Committee employees”, \$1,955,000;  
“Committee on Appropriations (studies and investigations)”,  
\$16,000;  
“Office of the Legislative Counsel”, \$137,000;  
“Office of the Law Revision Counsel”, \$29,000;  
“Members’ clerk hire”, \$4,902,000;  
“Allowances and expenses”, \$1,279,000;  
“Special and select committees”, \$374,000;

**JOINT ITEMS**

“Joint Economic Committee”, \$55,000;  
“Joint Committee on Taxation”, \$169,000;  
“Education of Pages”, \$11,000;

**OFFICE OF TECHNOLOGY ASSESSMENT**

“Salaries and expenses”, \$150,000.

**CONGRESSIONAL BUDGET OFFICE**

“Salaries and expenses”, \$358,000;

**ARCHITECT OF THE CAPITOL**

Office of the Architect of the Capitol: “Salaries”, \$137,000;  
“Capitol buildings”, \$230,000;  
“Capitol grounds”, \$50,000;  
“Senate office buildings”, \$200,000;  
“House office buildings”, \$200,000;  
“Capitol power plant”, \$106,000;  
“Library buildings and grounds: structural and mechanical care”,  
\$70,000;

**BOTANIC GARDEN**

“Salaries and expenses”, \$40,000;

## LIBRARY OF CONGRESS

"Salaries and expenses", \$3,187,000;  
Copyright Office: "Salaries and expenses", \$504,000;  
Congressional Research Service: "Salaries and expenses",  
\$1,605,000;

## COPYRIGHT ROYALTY TRIBUNAL

"Salaries and expenses", \$36,000;

## GENERAL ACCOUNTING OFFICE

"Salaries and expenses", \$6,700,000;

## THE JUDICIARY

## SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", \$427,000;

## COURT OF CUSTOMS AND PATENT APPEALS

"Salaries and expenses", \$58,000;

## UNITED STATES COURT OF INTERNATIONAL TRADE

"Salaries and expenses", \$86,000;

## COURT OF CLAIMS

"Salaries and expenses", \$270,000;

## COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

## (INCLUDING TRANSFERS OF FUNDS)

"Salaries of judges", \$2,850,000; and in addition, \$50,000 shall be derived by transfer from "Space and Facilities";

"Salaries of supporting personnel", \$2,400,000; and in addition, \$4,500,000 which shall be derived by transfer from "Fees of jurors and commissioners", and \$6,000,000 shall be derived by transfer from "Space and facilities";

"Defender services", \$670,000;

"Bankruptcy courts, salaries and expenses", \$3,500,000;

## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", \$750,000;

## FEDERAL JUDICIAL CENTER

"Salaries and expenses", \$170,000.

## EXECUTIVE OFFICE OF THE PRESIDENT

## WHITE HOUSE OFFICE

"Salaries and expenses", \$775,000;

**EXECUTIVE RESIDENCE AT THE WHITE HOUSE**

“Operating expenses”, \$122,980;

**SPECIAL ASSISTANCE TO THE PRESIDENT**

“Salaries and expenses”, \$48,160;

**COUNCIL OF ECONOMIC ADVISERS**

“Salaries and expenses”, \$31,820;

**COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY**

“Council on Environmental Quality and Office of Environmental Quality”, \$17,000;

**OFFICE OF POLICY DEVELOPMENT**

“Salaries and expenses”, \$104,060;

**NATIONAL SECURITY COUNCIL**

“Salaries and expenses”, \$200,380;

**OFFICE OF ADMINISTRATION**

“Salaries and expenses”, \$190,060;

**OFFICE OF MANAGEMENT AND BUDGET**

“Salaries and expenses”, \$1,442,220;

**OFFICE OF FEDERAL PROCUREMENT POLICY**

“Salaries and expenses”, \$73,960;

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

“Salaries and expenses”, \$188,000.

**DEPARTMENT OF AGRICULTURE**

**(INCLUDING TRANSFERS OF FUNDS)**

“Office of the Secretary”, \$284,000;

“Departmental Administration”, for budget and program analysis, and public participation, \$110,000; for operations and finance, personnel, equal opportunity, safety and health management, and small and disadvantaged business utilization, \$440,000; making a total of \$550,000;

“Office of the Inspector General”, \$693,000 and in addition \$385,000 shall be derived by transfer from the appropriation “Food stamp program” and merged with this appropriation;

“Office of the General Counsel”, \$441,000;

“World Agricultural Outlook Board”, \$69,000;

“Foreign Agricultural Service”, \$542,000;

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**

“Salaries and expenses”, \$1,077,000. In addition, not to exceed an additional \$5,681,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund;

**RURAL ELECTRIFICATION ADMINISTRATION**

“Salaries and expenses”, \$600,000;

**FARMERS HOME ADMINISTRATION**

“Salaries and expenses”, \$5,092,000;

**SOIL CONSERVATION SERVICE**

“Conservation operations”, \$7,849,000 to be derived by transfer from unobligated balances appropriated by Public Law 96-304 for emergency measures under “Watershed and flood prevention operations”; “River basin surveys and investigations”, \$618,000 to be derived by transfer from unobligated balances appropriated by Public Law 96-304 for emergency measures under “Watershed and flood prevention operations”; “Watershed planning”, \$355,000 to be derived by transfer from unobligated balances appropriated by Public Law 96-304 for emergency measures under “Watershed and flood prevention operations”;

94 Stat. 857.

“Watershed and flood prevention operations”, \$2,000,000;

“Resource conservation and development”, \$500,000;

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

“Salaries and expenses”, \$4,585,000;

**AGRICULTURAL MARKETING SERVICE**

“Marketing services”, \$800,000;

“Funds for strengthening markets, income, and supply (section 32)”, (increase of \$190,000 in the limitation, “marketing agreements and orders”);

**FOOD SAFETY AND INSPECTION SERVICE**

“Salaries and expenses”, \$10,022,000;

**PACKERS AND STOCKYARDS ADMINISTRATION**

“Salaries and expenses”, \$377,000;

**FOREST SERVICE**

“Forest research”, \$1,753,000;

“State and private forestry”, \$486,000;

“National forest system”, \$18,813,000;

“Construction and land acquisition”, \$3,598,000;

**DEPARTMENT OF COMMERCE****GENERAL ADMINISTRATION****(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$1,467,000, to be derived by transfer from “Regional development programs”;

**BUREAU OF THE CENSUS****(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$2,200,000, to be derived by transfer from “Regional development programs”;

**ECONOMIC AND STATISTICAL ANALYSIS****(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$1,295,000, to be derived by transfer from “Regional development programs”;

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

“Operations, research, and facilities”, \$21,294,000, to remain available until expended;

**PATENT AND TRADEMARK OFFICE**

“Salaries and expenses”, \$3,874,000, to remain available until expended;

**DEPARTMENT OF DEFENSE—MILITARY****MILITARY PERSONNEL**

“Military personnel, Army”, \$1,476,573,000;  
“Military personnel, Navy”, \$1,073,144,000;  
“Military personnel, Marine Corps”, \$316,634,000;  
“Military personnel, Air Force”, \$1,198,858,000;  
“Reserve personnel, Army”, \$104,800,000;  
“Reserve personnel, Navy”, \$28,230,000;  
“Reserve personnel, Marine Corps”, \$12,880,000;  
“Reserve personnel, Air Force”, \$32,403,000;  
“National Guard personnel, Army”, \$162,300,000;  
“National Guard personnel, Air Force”, \$54,033,000;

**OPERATION AND MAINTENANCE****(INCLUDING TRANSFER OF FUNDS)**

“Operation and maintenance, Army”, \$180,000,000;  
“Operation and maintenance, Navy”, \$238,400,000;  
“Operation and maintenance, Marine Corps”, \$12,700,000;  
“Operation and maintenance, Air Force”, \$86,774,000; and in addition, \$75,726,000 of which \$36,100,000 shall be derived by transfer from “Aircraft procurement, Air Force, 1980/1982”, \$10,000,000

shall be derived by transfer from "Missile procurement, Air Force, 1982/1984", \$12,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and \$17,626,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983";

"Operation and maintenance, Defense Agencies", \$144,800,000;  
"Operation and maintenance, Army Reserve", \$11,211,000;  
"Operation and maintenance, Navy Reserve", \$3,247,000;  
"Operation and maintenance, Marine Corps Reserve", \$145,000;  
"Operation and maintenance, Air Force Reserve", \$9,500,000;  
"Operation and maintenance, Army National Guard", \$20,247,000;  
"Operation and maintenance, Air National Guard", \$23,400,000;  
"National Board for the Promotion of Rifle Practice, Army", \$16,000;  
"Court of Military Appeals, Defense", \$93,000;

#### FAMILY HOUSING, DEFENSE

"Family housing, Defense", \$9,800,000 (and an increase of \$9,800,000 in the limitation on Department of Defense, operation, maintenance);

### DEPARTMENT OF DEFENSE—CIVIL

#### DEPARTMENT OF THE ARMY

##### CORPS OF ENGINEERS—CIVIL

"Construction, general", \$13,000,000, to remain available until expended;  
"Operation and maintenance, general", \$17,000,000, to remain available until expended;  
"General expenses", \$5,000,000;

##### CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", \$79,000;

##### SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", \$753,000.

### DEPARTMENT OF EDUCATION

#### DEPARTMENTAL MANAGEMENT

"Salaries and expenses", \$4,676,000;  
"Office of the Inspector General, Salaries and expenses", \$559,000.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", \$10,300,000;

**HEALTH SERVICES ADMINISTRATION**

“Indian health services”, \$18,160,000;

**CENTERS FOR DISEASE CONTROL**

“Preventive health services”, \$7,132,000, of which \$2,300,000 is to be derived from unobligated swine-flu funds provided under Public Law 94-266;

90 Stat. 363.

**NATIONAL INSTITUTES OF HEALTH**

“National Library of Medicine”, \$633,000;

“Office of the Director”, \$1,056,000;

**ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION****(TRANSFER OF FUNDS)**

“Saint Elizabeths Hospital” \$4,454,000, of which \$3,454,000 is to be derived by transfer from deobligated prior year funds in “Health resources”;

**HEALTH RESOURCES ADMINISTRATION**

“Health resources”, \$1,270,000, to be derived by transfer from deobligated prior year funds;

**ASSISTANT SECRETARY FOR HEALTH**

“Salaries and expenses”, \$2,858,000;

**HEALTH CARE FINANCING ADMINISTRATION****(TRANSFER OF FUNDS)**

“Program management”, \$8,060,000, of which \$4,800,000 is to be derived by transfer from the “Federal Hospital Insurance Trust Fund” and the “Federal Supplementary Medical Insurance Trust Fund”;

**SOCIAL SECURITY ADMINISTRATION**

“Assistance payments program”, \$1,600,000;

“Special benefits for disabled coal miners”, \$300,000;

“Supplemental security income program”, \$20,711,000;

“Refugee assistance”, \$123,000;

“Limitation on administrative expenses” (increase of \$71,100,000 in the limitation on administrative expenses paid from the trust funds and supplemental security income program);

**ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES**

“Human development services”, \$2,497,000;

**DEPARTMENTAL MANAGEMENT**

“General departmental management”, \$6,473,000;

“Office of the Inspector General”, \$1,559,000;

“Office for Civil Rights”, \$397,000;

“Office of Consumer Affairs”, \$88,000;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

“Management of lands and resources”, \$3,728,000;

UNITED STATES FISH AND WILDLIFE SERVICE

“Resource management”, \$4,572,000;

NATIONAL PARK SERVICE

“Operation of the national park system”, \$6,446,000;

“National recreation and preservation”, \$235,000;

“John F. Kennedy Center for the Performing Arts”, \$70,000;

GEOLOGICAL SURVEY

“Surveys, investigations, and research”, \$7,042,000;

BUREAU OF INDIAN AFFAIRS

“Operation of Indian programs”, \$8,252,000;

OFFICE OF THE SOLICITOR

“Salaries and expenses”, \$150,000;

OFFICE OF THE SECRETARY

“Departmental management”, \$775,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

“Salaries and expenses”, \$1,041,000;

UNITED STATES PAROLE COMMISSION

“Salaries and expenses”, \$206,000;

LEGAL ACTIVITIES

“Salaries and expenses, general legal activities”, \$5,022,000;

“Salaries and expenses, Foreign Claims Settlement Commission”,  
\$29,000;

“Salaries and expenses, United States attorneys and marshals”,  
\$12,167,000;

“Salaries and expenses, Community Relations Service”, \$227,000;

FEDERAL BUREAU OF INVESTIGATION

“Salaries and expenses”, \$23,000,000;



**IMMIGRATION AND NATURALIZATION SERVICE**

“Salaries and expenses”, \$12,000,000;

**DRUG ENFORCEMENT ADMINISTRATION**

“Salaries and expenses”, \$6,000,000;

**FEDERAL PRISON SYSTEM**

“Salaries and expenses”, \$6,700,000;

**OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS**

**(TRANSFER OF FUNDS)**

“Research and statistics”, \$232,000, to be derived by transfer of reversionary funds from “Law Enforcement Assistance”;

**DEPARTMENT OF LABOR**

**EMPLOYMENT AND TRAINING ADMINISTRATION**

**(TRANSFER OF FUNDS)**

“Program administration”, \$4,847,000, to be derived by transfer from “Employment and training assistance”;

**LABOR-MANAGEMENT SERVICES ADMINISTRATION**

**(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$1,710,000, to be derived by transfer from Employment and Training Administration, “Employment and training assistance”;

**EMPLOYMENT STANDARDS ADMINISTRATION**

**(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$4,974,000, to be derived by transfer from Employment and Training Administration, “Employment and training assistance”;

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

**(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$2,927,000, to be derived by transfer from Employment and Training Administration, “Employment and training assistance”;

## BUREAU OF LABOR STATISTICS

## (TRANSFER OF FUNDS)

"Salaries and expenses", \$3,498,000, to be derived by transfer from Employment and Training Administration, "Employment and training assistance";

## DEPARTMENTAL MANAGEMENT

## (TRANSFER OF FUNDS)

"Salaries and expenses", \$3,377,000, to be derived by transfer from Employment and Training Administration, "Employment and training assistance";

## DEPARTMENT OF STATE

## ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", \$22,078,000, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956.

22 USC 2680.

## DEPARTMENT OF TRANSPORTATION

## FEDERAL HIGHWAY ADMINISTRATION

"Limitation on general operating expenses" (increase of \$2,500,000 in the limitation on general operating expenses): *Provided*, That none of the funds in this or any other Act shall be available for the implementation of the Federal Highway Administration's rule "Design standards for highways; resurfacing, restoration, and rehabilitation of streets and highways other than freeways";

## FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", \$200,000;

## URBAN MASS TRANSPORTATION ADMINISTRATION

"Administrative expenses", \$500,000;

## FEDERAL AVIATION ADMINISTRATION

"Operations", \$83,794,000;

"Operation and maintenance, Metropolitan Washington airports", \$456,000;

## COAST GUARD

"Operating expenses", \$78,100,000, of which \$14,000,000 shall be derived by transfer from the appropriation "Coast Guard, Retired pay";

"Reserve training", \$2,868,000, of which \$650,000 shall be derived by transfer from the appropriation "Research and Special Programs Administration, Research and special programs" and \$218,000 shall be derived by transfer from the unobligated balances of "Cooperative automotive research";

**SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION**

**“Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation”** (increase of \$38,000 in the limitation on administrative expenses);

**OFFICE OF THE INSPECTOR GENERAL**

**“Salaries and expenses”**, \$445,000 together with \$155,000 derived from funds available pursuant to 23 U.S.C. 104(a) for payment of obligations;

**OFFICE OF THE SECRETARY**

87 Stat. 1049.

45 USC 701 note.

**“Salaries and expenses”**, \$700,000 together with \$74,543 of unobligated balances originally appropriated in Public Law 93-240 for carrying out the responsibilities of the Regional Rail Reorganization Act of 1973.

**DEPARTMENT OF THE TREASURY****OFFICE OF THE SECRETARY**

**“Salaries and expenses”**, \$1,766,000;

**“International affairs”**, \$992,000;

**OFFICE OF REVENUE SHARING**

**“Salaries and expenses”**, \$61,000;

**FEDERAL LAW ENFORCEMENT TRAINING CENTER**

**“Salaries and expenses”**, \$255,000;

**BUREAU OF GOVERNMENT FINANCIAL OPERATIONS**

**“Salaries and expenses”**, \$2,588,000;

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**

**“Salaries and expenses”**, \$2,685,000;

**UNITED STATES CUSTOMS SERVICE**

**“Salaries and expenses”**, \$18,565,000;

**BUREAU OF THE MINT**

**“Salaries and expenses”**, \$3,386,000;

**BUREAU OF THE PUBLIC DEBT**

**“Administering the public debt”**, \$1,594,000;

**INTERNAL REVENUE SERVICE**

**“Salaries and expenses”**, \$8,068,000;

**“Taxpayer service and returns processing”**, \$25,222,000;

**“Examination and appeals”**, \$34,846,000;

**“Investigation and collections”**, \$23,117,000;

Administrative provision—Internal Revenue Service: Any appropriation made available to the Internal Revenue Service for fiscal year 1982 may be transferred to any other Internal Revenue Service appropriation to the extent made necessary by increased pay costs authorized by law.

#### UNITED STATES SECRET SERVICE

“Salaries and expenses”, \$5,855,000.

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

“Research and program management”, \$80,000,000, of which \$50,000,000 shall remain available until September 30, 1983;

#### VETERANS ADMINISTRATION

“Medical care”, \$147,308,000;

“Medical and prosthetic research”, \$4,244,000, to remain available until September 30, 1983;

“General operating expenses”, \$21,925,000;

#### OTHER INDEPENDENT AGENCIES

##### ACTION

“Operating expenses, domestic programs”, \$952,000;

##### ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

“Salaries and expenses”, \$52,000;

##### CIVIL AERONAUTICS BOARD

“Salaries and expenses”, \$375,000;

##### COMMISSION OF FINE ARTS

“Salaries and expenses”, \$12,000;

##### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

“Salaries and expenses”, \$19,000;

##### COMMODITY FUTURES TRADING COMMISSION

“Salaries and expenses”, \$788,000;

##### CONSUMER PRODUCT SAFETY COMMISSION

“Salaries and expenses”, \$500,000;

##### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

“Salaries and expenses”, \$4,850,000;

**FARM CREDIT ADMINISTRATION**

“Limitation on administrative expenses” (increase of \$259,000 in the limitation on administrative expenses);

**FEDERAL COMMUNICATIONS COMMISSION**

“Salaries and expenses”, \$3,000,000;

**FEDERAL ELECTION COMMISSION**

“Salaries and expenses”, \$184,000;

**FEDERAL EMERGENCY MANAGEMENT AGENCY****(TRANSFER OF FUNDS)**

“Salaries and expenses”, \$2,084,000, to be derived by transfer from “State and local assistance” and an additional \$500,000 to be derived by transfer from “Emergency planning and assistance”, for a total available by transfer of \$2,584,000;

**FEDERAL HOME LOAN BANK BOARD**

“Limitation on administrative and nonadministrative expenses, Federal Home Loan Bank Board” (increase of \$400,000 in the limitation on administrative expenses and an increase of \$300,000 in the limitation on nonadministrative expenses);

**FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION**

“Limitation on administrative expenses, Federal Savings and Loan Insurance Corporation” (increase of \$30,000 in the limitation on administrative expenses);

**FEDERAL LABOR RELATIONS AUTHORITY**

“Salaries and expenses”, \$645,000;

**FEDERAL MARITIME COMMISSION**

“Salaries and expenses”, \$273,000;

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

“Salaries and expenses”, \$225,000;

**GENERAL SERVICES ADMINISTRATION****FEDERAL BUILDINGS FUND****LIMITATIONS ON AVAILABILITY OF REVENUE**

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1982, \$3,022,000 shall be available for such purposes and the limitation on the amount available for program direction and centralized services is increased to \$91,607,000: *Provided*, That any revenues and collections and any other sums accruing to this fund during fiscal year

1982, excluding reimbursement under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of \$1,871,333,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

“Operating expenses”, \$4,088,000;

TRANSPORTATION AND PUBLIC UTILITIES SERVICE

“Operating expenses”, \$611,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

“Operating expenses”, \$1,681,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

“Operating expenses”, \$488,000;

FEDERAL PROPERTY RESOURCES SERVICE

(TRANSFER OF FUNDS)

“Operating expenses”, \$1,079,000; of which \$501,000 shall be transferred from the appropriation “Rare silver dollars”;

GENERAL MANAGEMENT AND ADMINISTRATION

“Salaries and expenses”, \$4,994,000;

“Office of Inspector General”, \$677,000;

HOLOCAUST MEMORIAL COUNCIL

“Holocaust memorial council”, \$17,000;

INTELLIGENCE COMMUNITY STAFF

“Intelligence community staff”, \$632,000;

INTERGOVERNMENTAL AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

“Salaries and expenses”, \$82,000;

INTERNATIONAL COMMUNICATION AGENCY

“Salaries and expenses”, \$7,115,000, notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

22 USC 1476.

INTERNATIONAL TRADE COMMISSION

“Salaries and expenses”, \$603,000;

**MERIT SYSTEMS PROTECTION BOARD**

“Salaries and expenses”, \$326,000;  
Office of Special Counsel: “Salaries and expenses”, \$104,000;

**NATIONAL CAPITAL PLANNING COMMISSION**

“Salaries and expenses”, \$106,000;

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**NATIONAL ENDOWMENT FOR THE ARTS**

“Salaries and expenses”, \$170,000;

**NATIONAL LABOR RELATIONS BOARD**

“Salaries and expenses”, \$2,400,000;

**NATIONAL SCIENCE FOUNDATION**

“Research and related activities”, \$1,900,000 (and an increase of \$300,000 in the limitation on program development and management), to remain available until September 30, 1983;

**NATIONAL TRANSPORTATION SAFETY BOARD**

“Salaries and expenses”, \$580,000;

**OFFICE OF PERSONNEL MANAGEMENT**

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$3,312,000 together with an additional amount of \$803,000 for current fiscal year administration expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes.

**PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION**

“Salaries and expenses”, \$48,000;

**RAILROAD RETIREMENT BOARD**

“Limitation on administration” (increase of \$661,000 in use limitation on administration paid from the railroad retirement account): *Provided*, That the total number of full-time equivalent employees available to the Railroad Retirement Board under this heading and other appropriations of funds and other limitations on administration to pay expenses for activities required by law to be performed by the Board shall not be less than 1,578;

**SELECTIVE SERVICE SYSTEM**

“Salaries and expenses”, \$938,000;

## SMITHSONIAN INSTITUTION

"Salaries and expenses", \$2,700,000;  
"Salaries and expenses, Woodrow Wilson International Center for Scholars", \$25,000;

## UNITED STATES TAX COURT

"Salaries and expenses", \$381,000.

## TITLE III

## GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Restriction.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1982, limiting the amount which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) the Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) the Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) the Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) the Energy Information Administration, 490 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further*, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds

31 USC 1402,  
1403.



for which such special message was transmitted with respect to such rescission, reservation, or deferral: *Provided further*, That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriation Acts to programs or activities funded in Interior and Related Agencies Appropriation Acts or vice versa.

Ante, p. 191.

SEC. 304. Funds appropriated by chapter VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of \$18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the State of Washington as a result of a serious threat of catastrophic flooding.

SEC. 305. (a) The Congress finds that—

20 USC 1401  
note.  
20 USC 1411.

(1) since the enactment of Public Law 94-142, the Education for All Handicapped Children Act of 1975, amending part B of the Education of the Handicapped Act, significant numbers of handicapped youngsters have been successfully brought into the Nation's educational system;

(2) part B of the Education of the Handicapped Act has been consistently upheld since its enactment and any attempt to weaken the rights of handicapped children or the rights of parents of handicapped children has been rejected by the Congress;

(3) handicapped children have consistently demonstrated that they can and do take full advantage of the educational opportunities afforded to them;

(4) the success of part B of the Education of the Handicapped Act in States where it is in effect can be attributed in large measure to the statutory and regulatory provisions assuring the rights and participation of parents in determining the education of their children; and

(5) the Department of Education has on August 4, 1982 published proposed changes in the regulations implementing part B of the Education of the Handicapped Act designed to eliminate the assurances that the rights and participation of parents and handicapped school children be recognized.

(b) It is the sense of the Congress that—

20 USC 1232.

(1) the proposed final regulations implementing part B of the Education of the Handicapped Act should not become effective, and should not be transmitted to the Congress under paragraph (1) of section 431(d) of the General Education Provisions Act, until—

(A) after the 97th Congress has returned from the recess which is scheduled to begin in October 1982, or

(B) after the 98th Congress is convened, whichever first occurs;

(2) the forty-five day period specified in such paragraph (1) should begin on the day that such regulations are transmitted to the Congress in accordance with clause (1) of this subsection; and

(3) paragraph (2) (except the first sentence) of section 431(d) of such Act should not apply to such forty-five day period.

Restriction.  
Report to  
Congress.

SEC. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out

of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

*Ante*, p. 273, 294.

This Act may be cited as the "Supplemental Appropriations Act, 1982".

Short title.

MELVIN PRICE

*Speaker of the House of Representatives Pro Tempore*

STROM THURMOND

*President of the Senate Pro Tempore*

IN THE HOUSE OF REPRESENTATIVES, U.S.,

*September 9, 1982.*

The House of Representatives having proceeded to reconsider the bill (H.R. 6863) entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.

*Clerk.*

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.

*Clerk.*

*By W. Raymond Colley*

*Deputy Clerk.*

IN THE SENATE OF THE UNITED STATES

*September 10 (legislative day, September 8), 1982.*

The Senate having proceeded to reconsider the bill (H.R. 6863) entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved*, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

WILLIAM F. HILDENBRAND

*Secretary.*

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LEGISLATIVE HISTORY—H.R. 6863:

HOUSE REPORTS: No. 97-673 (Comm. on Appropriations) and No. 97-747 (Comm. of Conference).

SENATE REPORT No. 97-516 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 29, considered and passed House.

Aug. 5, 9-11, considered and passed Senate, amended.

Aug. 18, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and disagreed to certain Senate amendments.

Aug. 20, Senate agreed to conference report; resolved amendments in disagreement.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 35 (1982):

Aug. 28, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 9, House overrode veto.

Sept. 10, Senate overrode veto.

Public Law 97-258  
97th Congress

An Act

To revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance".

Sept. 13, 1982  
[H.R. 6128]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE 31, UNITED STATES CODE**

**SECTION 1.** Certain general and permanent laws of the United States, related to money and finance, are revised, codified, and enacted as title 31, United States Code, "Money and Finance", as follows:

Money and  
Finance.  
Enactment as  
title 31, United  
States Code.  
31 USC prec. 101  
note.

**TITLE 31—MONEY AND FINANCE**

SUBTITLE	Sec.
I. GENERAL.....	101
II. THE BUDGET PROCESS.....	1101
III. FINANCIAL MANAGEMENT.....	3101
IV. MONEY.....	5101
V. GENERAL ASSISTANCE ADMINISTRATION.....	6101
VI. MISCELLANEOUS.....	9101

**SUBTITLE I—GENERAL**

CHAPTER	Sec.
1. DEFINITIONS.....	101
3. DEPARTMENT OF THE TREASURY.....	301
5. OFFICE OF MANAGEMENT AND BUDGET.....	501
7. GENERAL ACCOUNTING OFFICE.....	701

**CHAPTER 1—DEFINITIONS**

- Sec.  
101. Agency.  
102. Executive agency.  
103. United States.

**§ 101. Agency**

In this title, "agency" means a department, agency, or instrumentality of the United States Government.

**§ 102. Executive agency**

In this title, "executive agency" means a department, agency, or instrumentality in the executive branch of the United States Government.

**§ 103. United States**

In this title, "United States", when used in a geographic sense, means the States of the United States and the District of Columbia.

**CHAPTER 3—DEPARTMENT OF THE TREASURY****SUBCHAPTER I—ORGANIZATION**

- Sec.  
 301. Department of the Treasury.  
 302. Treasury of the United States.  
 303. Bureau of Engraving and Printing.  
 304. Bureau of the Mint.  
 305. Federal Financing Bank.  
 306. Fiscal Service.  
 307. Office of the Comptroller of the Currency.  
 308. United States Customs Service.  
 309. Continuing in office.

**SUBCHAPTER II—ADMINISTRATIVE**

321. General authority of the Secretary.  
 322. Working capital fund.  
 323. Investment of operating cash.  
 324. Disposing and extending the maturity of obligations.  
 325. International affairs authorization.  
 326. Availability of appropriations for certain expenses.  
 327. Advancements and reimbursements for services.  
 328. Accounts and payments of former disbursing officials.  
 329. Limitations on outside activities.  
 330. Practice before the Department.  
 331. Reports.

**SUBCHAPTER I—ORGANIZATION****§ 301. Department of the Treasury**

(a) The Department of the Treasury is an executive department of the United States Government at the seat of the Government.

(b) The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of the Treasury appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall carry out—

(1) duties and powers prescribed by the Secretary; and

(2) the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary, an Under Secretary for Monetary Affairs, 2 Deputy Under Secretaries, and a Treasurer of the United States, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary. They shall carry out duties and powers prescribed by the Secretary. When appointing the Under Secretary, the President may designate the Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 5 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

(f)(1) The Department has a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief law officer of the Department. Without

regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels. The Secretary may designate one of the Assistant General Counsels to act as the General Counsel when the General Counsel is absent or unable to serve or when the office of General Counsel is vacant. The General Counsel and Assistant General Counsels shall carry out duties and powers prescribed by the Secretary.

(2) The President may appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service. The Chief Counsel is the chief law officer for the Service and shall carry out duties and powers prescribed by the Secretary.

(g) The Department shall have a seal.

### **§ 302. Treasury of the United States**

The United States Government has a Treasury of the United States. The Treasury is in the Department of the Treasury.

### **§ 303. Bureau of Engraving and Printing**

(a) The Bureau of Engraving and Printing is a bureau in the Department of the Treasury.

(b) The head of the Bureau is the Director of the Bureau of Engraving and Printing appointed by the Secretary of the Treasury. The Director—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) reports directly to the Secretary.

### **§ 304. Bureau of the Mint**

(a) The Bureau of the Mint is a bureau in the Department of the Treasury.

(b)(1) The head of the Bureau is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate. The term of the Director is 5 years. The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

(2) The Director shall carry out duties and powers prescribed by the Secretary of the Treasury.

### **§ 305. Federal Financing Bank**

The Federal Financing Bank, established under section 4 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2283), is subject to the direction and supervision of the Secretary of the Treasury.

### **§ 306. Fiscal Service**

(a) The Fiscal Service is a service in the Department of the Treasury.

(b) The head of the Fiscal Service is the Fiscal Assistant Secretary appointed under section 301(d) of this title.

(c) The Fiscal Service has a—

(1) Bureau of Government Financial Operations, having as its head a Commissioner of Government Financial Operations; and

(2) Bureau of the Public Debt, having as its head a Commissioner of the Public Debt.

(d) The Secretary of the Treasury may designate another officer of the Department to act as the Fiscal Assistant Secretary when the Fiscal Assistant Secretary is absent or unable to serve or when the office of Fiscal Assistant Secretary is vacant.

#### **§ 307. Office of the Comptroller of the Currency**

The Office of the Comptroller of the Currency, established under section 324 of the Revised Statutes (12 U.S.C. 1), is an office in the Department of the Treasury.

#### **§ 308. United States Customs Service**

The United States Customs Service, established under section 1 of the Act of March 3, 1927 (19 U.S.C. 2071), is a service in the Department of the Treasury.

#### **§ 309. Continuing in office**

When the term of office of an officer of the Department of the Treasury ends, the officer may continue to serve until a successor is appointed and qualified.

### **SUBCHAPTER II—ADMINISTRATIVE**

#### **§ 321. General authority of the Secretary**

(a) The Secretary of the Treasury shall—

(1) prepare plans for improving and managing receipts of the United States Government and managing the public debt;

(2) carry out services related to finances that the Secretary is required to perform;

(3) issue warrants for money drawn on the Treasury consistent with appropriations;

(4) mint coins, engrave and print currency and security documents, and refine and assay bullion, and may strike medals;

(5) prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the Government and individuals from fraud and loss, that apply to anyone who may—

(A) receive for the Government, Treasury notes, United States notes, or other Government securities; or

(B) be engaged or employed in preparing and issuing those notes or securities;

(6) collect receipts;

(7) with a view to prosecuting persons, take steps to discover fraud and attempted fraud involving receipts and decide on ways to prevent and detect fraud; and

(8) maintain separate accounts of taxes received in each State, territory, and possession of the United States, and collection district, with each account listing—

(A) each kind of tax;

(B) the amount of each tax; and

(C) the money paid as pay and allowances to officers and employees of the Department collecting taxes in that State, territory, possession, or district.

(b) The Secretary may—

(1) prescribe regulations to carry out the duties and powers of the Secretary;

Regulations.

(2) delegate duties and powers of the Secretary to another officer or employee of the Department of the Treasury;

(3) transfer within the Department the records, property, officers, employees, and unexpended balances of appropriations, allocations, and amounts of the Department that the Secretary considers necessary to carry out a delegation made under clause (2) of this subsection;

(4) detail, in addition to details authorized under another law, not more than 6 officers and employees of the Department at any one time to enforce the laws related to the Department, except that of those 6 officers and employees not more than 4 officers and employees—

(A) paid from the appropriations for the collection of customs may be so detailed;

(B) paid from the appropriations for internal revenue may be so detailed; and

(C) paid from the appropriations for suppressing counterfeiting and other crimes may be so detailed;

(5) authorize, at rates and under conditions prescribed by the Secretary, the private use of telephone lines controlled by the Department when the use does not interfere with Department business; and

(6) buy arms and ammunition required by officers and employees of the Department in carrying out their duties and powers.

(c) Duties and powers of officers and employees of the Department are vested in the Secretary except duties and powers—

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Secretary; and

(2) of the Comptroller of the Currency.

5 USC 551.

### § 322. Working capital fund

(a) The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services. Amounts in the fund may total not more than \$1,000,000 at any time.

(b) Amounts in the fund remain available until expended. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) to the extent transferred to the fund by the Secretary, the reasonable value of supply inventories, equipment, and other assets and inventories on order for providing services out of amounts in the fund, less related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, or credited with advance payments, from amounts available to the Department or from other sources, for supplies and services at rates that will equal the expenses of operation, including accrual of annual leave and the



depreciation of plant and equipment. Amounts the Secretary decides are in excess of the needs of the fund shall be deposited at the end of each fiscal year in the Treasury as miscellaneous receipts.

### § 323. Investment of operating cash

(a) To manage United States cash, the Secretary of the Treasury may invest any part of the operating cash of the Treasury for not more than 90 days. Investments may be made in obligations of—

- (1) depositaries maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary; and
- (2) the United States Government.

(b) Subsection (a) of this section does not—

- (1) require the Secretary to invest a cash balance held in a particular account; or
- (2) permit the Secretary to require the sale of obligations by a particular person, dealer, or financial institution.

(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

### § 324. Disposing and extending the maturity of obligations

(a) The Secretary of the Treasury may—

(1) dispose of obligations—

(A) acquired by the Secretary for the United States Government; or

(B) delivered by an executive agency; and

(2) make arrangements to extend the maturity of those obligations.

(b) The Secretary may dispose or extend the maturity of obligations under subsection (a) of this section in the way, in amounts, at prices (for cash, obligations, property, or a combination of cash, obligations, or property), and on conditions the Secretary considers advisable and in the public interest. However, the Secretary may not dispose of obligations of one issuer, held by the Secretary at one time, having on the date of disposal a total face or par value of more than \$1,000,000 or, if no-par obligations, a stated or book value of more than \$1,000,000.

(c) The authority under this section is in addition to authority under another law.

### § 325. International affairs authorization

(a) Under regulations prescribed by the Secretary of the Treasury, the Secretary may provide officers and employees of the Department of the Treasury carrying out international affairs duties and powers of the Department with allowances and benefits comparable to those provided under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.).

(b) The following amounts may be appropriated to the Secretary for the fiscal year ending September 30, 1982:

(1) not more than \$22,896,000 to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses).

(2) not more than \$1,000,000 for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees

Appropriation.

5 USC 5382.  
5 USC 5301 *et*  
*seq.*

carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(c) Necessary amounts may be appropriated to the Secretary for each fiscal year beginning after September 30, 1982—

Appropriation.

(1) to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses);

(2) for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

5 USC 5382.  
5 USC 5301 *et seq.*

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

### § 326. Availability of appropriations for certain expenses

(a) Under regulations prescribed by the Secretary of the Treasury, an appropriation for the Department of the Treasury available to pay travel expenses also is available to pay expenses to attend meetings of organizations related to the function or activity for which the appropriation is made.

(b) The Secretary may approve reimbursement to agents on protective missions for subsistence expenses authorized by law without regard to rates established under section 5702 of title 5.

5 USC 5702.

### § 327. Advancements and reimbursements for services

(a) In this section, "service" includes service provided in—

"Service."

(1) disbursing and receiving amounts.

(2) servicing bonds.

(3) making accounts.

(4) maintaining bank accounts.

(b) When the Secretary of the Treasury provides a service for an agency (except the Department of the Treasury) for which amounts have not been appropriated to the Department, the agency may advance for credit or reimburse the Department the amounts necessary to provide the service. Notwithstanding section 3302 of this title, amounts advanced or reimbursed may be credited to the appropriation of the Department that is current when the service is provided.

### § 328. Accounts and payments of former disbursing officials

(a) If a chief disbursing official or a director of a disbursing center of the Department of the Treasury dies, resigns, or leaves office, the deputy chief disbursing official or the deputy director of the disbursing center designated by the Secretary of the Treasury may continue the accounts and payments in the name of the former disbursing official or director through the last day of the 2d month after the month in which the death, resignation, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary shall honor checks signed in the

name of the former disbursing official or director in the same way as if the former disbursing official or director had continued in office.

(b) Only the deputy chief or deputy director designated under subsection (a) of this section is liable for actions taken in the name of the former disbursing official under subsection (a).

### **§ 329. Limitations on outside activities**

- (a)(1) The Secretary of the Treasury and the Treasurer may not—
- (A) be involved in trade or commerce;
  - (B) own any part of a vessel (except a pleasure vessel);
  - (C) buy or hold as a beneficiary in trust public property;
  - (D) be involved in buying or disposing of obligations of a State or the United States Government; and
  - (E) personally take or use a benefit gained from conducting business of the Department of the Treasury except as authorized by law.

Fine.

(2) An officer violating this subsection shall be fined \$3,000, removed from office, and thereafter may not hold an office of the Government.

(3) An individual (except prosecutors) giving information leading to the prosecution and conviction of an individual violating this subsection shall receive \$1,500 of the fine when paid.

(b)(1) An officer or employee of the Department (except the Secretary or Treasurer) may not—

- (A) carry on a trade or business in the funds, debts, or property of a State or the Government; and
- (B) personally use a benefit gained from conducting business of the Department.

Fine.

(2) An officer or employee violating this subsection shall be fined \$500 and removed from office.

### **§ 330. Practice before the Department**

5 USC 500.

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

- (1) regulate the practice of representatives of persons before the Department of the Treasury; and
- (2) before admitting a representative to practice, require that the representative demonstrate—
  - (A) good character;
  - (B) good reputation;
  - (C) necessary qualifications to enable the representative to provide to persons valuable service; and
  - (D) competency to advise and assist persons in presenting their cases.

(b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department a representative who—

- (1) is incompetent;
- (2) is disreputable;
- (3) violates regulations prescribed under this section; or
- (4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

### **§ 331. Reports**

(a) The Secretary of the Treasury shall submit to Congress each year an annual report. The report shall include—

(1) a statement of the public receipts and public expenditures for the prior fiscal year;

(2) estimates of public receipts and public expenditures for the current and next fiscal years;

(3) plans for improving and increasing public receipts to provide Congress with information on ways to raise amounts necessary to meet public expenditures;

(4) a statement of all contracts for supplies or services made by the Secretary during the prior fiscal year;

(5) a statement of appropriations expended to pay for miscellaneous claims not otherwise provided for;

(6) a statement on all payments made from the fund under section 3126 of this title for the prior fiscal year; and

(7) estimates of amounts for payment under section 1322(b) of this title.

(b)(1) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on—

(A) the total and individual amounts of contingent liabilities and unfunded liabilities of the United States Government;

(B) as far as practicable, trust fund liabilities, liabilities of Government corporations, indirect liabilities not included as a part of the public debt, and liabilities of insurance and annuity programs (including their actuarial status);

(C) collateral pledged and assets available (or to be realized) as security for the liabilities (separately noting Government obligations) and other assets specifically available to liquidate the liabilities of the Government; and

(D) the total amount in each category under clauses (A)–(C) of this paragraph for each agency.

(2) The report shall present the information required under paragraph (1) of this subsection in a concise way, with explanatory material (including an analysis of the significance of liabilities based on past experience and probable risk) the Secretary considers desirable.

(c) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on the total amount of public receipts and public expenditures listing receipts, when practicable, by ports, districts, and States and the expenditures by each appropriation.

(d) The Secretary shall report to either House of Congress in person or in writing, as required, on matters referred to the Secretary by that House of Congress.

## CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

### SUBCHAPTER I—ORGANIZATION

Sec.

501. Office of Management and Budget.

502. Officers.

503. Office of Information and Regulatory Affairs.

### SUBCHAPTER II—ADMINISTRATIVE

521. Employees.

522. Necessary expenditures.

## SUBCHAPTER I—ORGANIZATION

**§ 501. Office of Management and Budget**

The Office of Management and Budget is an office in the Executive Office of the President.

**§ 502. Officers**

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director—

(1) shall carry out the duties and powers prescribed by the Director; and

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(d) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(e) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

**§ 503. Office of Information and Regulatory Affairs**

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

44 USC 3503.

## SUBCHAPTER II—ADMINISTRATIVE

**§ 521. Employees**

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

**§ 522. Necessary expenditures**

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

## CHAPTER 7—GENERAL ACCOUNTING OFFICE

## SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

Sec.

701. Definitions.

702. General Accounting Office.

703. Comptroller General and Deputy Comptroller General.

704. Relationship to other laws.

**SUBCHAPTER II—GENERAL DUTIES AND POWERS**

Sec.

- 711. General authority.
- 712. Investigating the use of public money.
- 713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms.
- 714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency.
- 715. Audit of accounts and operations of the District of Columbia government.
- 716. Availability of information and inspection of records.
- 717. Evaluating programs and activities of the United States Government.
- 718. Availability of draft reports.
- 719. Comptroller General reports.
- 720. Agency reports.

**SUBCHAPTER III—PERSONNEL**

- 731. General.
- 732. Personnel management system.
- 733. Senior Executive Service.
- 734. Assignments and details to Congress.
- 735. Relationship to other laws.
- 736. Authorization of appropriations.

**SUBCHAPTER IV—PERSONNEL APPEALS BOARD**

- 751. Organization.
- 752. Chairman and General Counsel.
- 753. Duties and powers.
- 754. Action by the Comptroller General.
- 755. Judicial review.

**SUBCHAPTER V—ANNUITIES**

- 771. Definitions.
- 772. Annuity of the Comptroller General.
- 773. Election of survivor benefits.
- 774. Survivor annuities.
- 775. Refunds.
- 776. Payment of survivor benefits.
- 777. Annuity increases.
- 778. Dependency and disability decisions.
- 779. Use of appropriations.

**SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION****§ 701. Definitions**

In this chapter—

- (1) “agency” includes the District of Columbia government but does not include the legislative branch or the Supreme Court.
- (2) “appropriations” means appropriated amounts and includes, in appropriate context—
  - (A) funds;
  - (B) authority to make obligations by contract before appropriations; and
  - (C) other authority making amounts available for obligation or expenditure.

**§ 702. General Accounting Office**

(a) The General Accounting Office is an instrumentality of the United States Government independent of the executive departments.

(b) The head of the Office is the Comptroller General of the United States. The Office has a Deputy Comptroller General of the United States.

(c) The Administrator of General Services shall provide the Comptroller General with space in the General Accounting Office Building that the Comptroller General considers necessary for use by the Comptroller General.

(d) The Comptroller General may adopt a seal for the Office.

### **§ 703. Comptroller General and Deputy Comptroller General**

(a)(1) The Comptroller General and Deputy Comptroller General are appointed by the President, by and with the advice and consent of the Senate.

(2) When a vacancy occurs in the office of Comptroller General or Deputy Comptroller General, a commission is established to recommend individuals to the President for appointment to the vacant office. The commission shall be composed of—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the majority and minority leaders of the House of Representatives and the Senate;

(D) the chairmen and ranking minority members of the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House; and

(E) when the office of Deputy Comptroller General is vacant, the Comptroller General.

(3) A commission established because of a vacancy in the office of the Comptroller General shall recommend at least 3 individuals. The President may ask the commission to recommend additional individuals.

(b) Except as provided in subsection (e) of this section, the term of the Comptroller General is 15 years. The Comptroller General may not be reappointed. The term of the Deputy Comptroller General expires on the date an individual is appointed Comptroller General. The Deputy Comptroller General may continue to serve until a successor is appointed.

(c) The Deputy Comptroller General—

(1) carries out duties and powers prescribed by the Comptroller General; and

(2) acts for the Comptroller General when the Comptroller General is absent or unable to serve or when the office of Comptroller General is vacant.

(d) The Comptroller General shall designate an officer or employee of the General Accounting Office to act as Comptroller General when the Comptroller General and Deputy Comptroller General are absent or unable to serve or when the offices of Comptroller General and Deputy Comptroller General are vacant.

(e)(1) A Comptroller General or Deputy Comptroller General retires on becoming 70 years of age. Either may be removed at any time by—

(A) impeachment; or

(B) joint resolution of Congress, after notice and an opportunity for a hearing, only for—

(i) permanent disability;

(ii) inefficiency;

(iii) neglect of duty;

(iv) malfeasance; or

(v) a felony or conduct involving moral turpitude.

(2) A Comptroller General or Deputy Comptroller General removed from office under paragraph (1) of this subsection may not be reappointed to the office.

(f) The annual rate of basic pay of the—

(1) Comptroller General is equal to the rate for level II of the Executive Schedule; and

5 USC 5313.

(2) Deputy Comptroller General is equal to the rate for level III of the Executive Schedule.

5 USC 5314.

#### § 704. Relationship to other laws

(a) To the extent applicable, all laws generally related to administering an agency apply to the Comptroller General.

(b) A copy of a record and a transcript from a record or proceeding of the Comptroller General, that the Comptroller General or Deputy Comptroller General certifies under seal, shall be admitted as evidence with the same effect as a copy or transcript referred to in section 1733 of title 28.

28 USC 1733.

### SUBCHAPTER II—GENERAL DUTIES AND POWERS

#### § 711. General authority

The Comptroller General may—

(1) prescribe regulations to carry out the duties and powers of the Comptroller General;

(2) delegate the duties and powers of the Comptroller General to officers and employees of the General Accounting Office as the Comptroller General decides is necessary to carry out those duties and powers;

(3) regulate the practice of representatives of persons before the Office; and

(4) administer oaths to witnesses when auditing and settling accounts.

#### § 712. Investigating the use of public money

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

Report to Congress.

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

Report to Congress.

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

#### § 713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Bureau of



Alcohol, Tobacco, and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b)) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

**§ 714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency**

“Agency.”

(a) In this section, “agency” means the Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Federal Reserve Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board of Governors and officers and employees

of the Federal Reserve System related to clauses (1)-(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an agency to withhold information from a committee of Congress authorized to have the information.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit. An agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an agency that the Comptroller General possesses during an audit, shall remain in the agency. The Comptroller General shall prevent unauthorized access to records or property.

#### **§ 715. Audit of accounts and operations of the District of Columbia government**

(a) In addition to the audit carried out under section 455 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 803; D.C. Code, § 47-117), the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall consider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the

Report to  
Congress, Mayor  
and Council of  
District of  
Columbia.

Comptroller General considers necessary to keep Congress, the Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

Information  
disclosure.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit.

#### **§ 716. Availability of information and inspection of records**

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

Reports.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record—

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpoena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General has access by law or by agreement of that person from whom access is sought. A subpoena shall identify the record and the authority for the inspection and may be issued by the Comptroller General. The Comptroller General may have an individual serve a subpoena under this subsection by delivering a copy to the person named in the subpoena or by mailing a copy of the subpoena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individ-

ual serving the subpoena that states how the subpoena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpoena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpoena under subsection (c) of this section if—

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that—

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

5 USC 552.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the General Accounting Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

#### **§ 717. Evaluating programs and activities of the United States Government**

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

"Agency."

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

#### § 718. Availability of draft reports

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period.

#### § 719. Comptroller General reports

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) The Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717(b)–(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h) of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the General Accounting Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

(2) the scope and subject matter of audits under section 713 of this title; and

(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.

(e) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Operations and Appropriations of the House, and the

committees with jurisdiction over legislation related to the operation of each executive agency.

(f) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(g) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(h)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(i) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

#### § 720. Agency reports

“Agency.”

(a) In this section, “agency” means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

### SUBCHAPTER III—PERSONNEL

#### § 731. General

(a) The Comptroller General may appoint, pay, assign, and remove officers (except the Deputy Comptroller General) and employees the

Comptroller General decides are necessary to carry out the duties and powers of the General Accounting Office.

(b) The Comptroller General may establish for appropriate officers and employees a merit pay system consistent with section 5401(a) of title 5.

(c) The annual rate of basic pay of the General Counsel of the General Accounting Office is equal to the rate for level IV of the Executive Schedule.

5 USC 5315.

(d) When a change in organization, management responsibility, or workload makes it necessary, the Comptroller General may fix the rate of basic pay of 5 positions at rates not more than the rate for level IV of the Executive Schedule.

(e) The Comptroller General may procure the services of experts and consultants under section 3109 of title 5, except that the services of not more than—

5 USC 3109.

(1) 10 experts and consultants may be procured for not more than 3 years; and

(2) 10 experts and consultants may be procured permanently, temporarily, or intermittently to carry out sections 717(b)-(d) and 719(b)(1)(A) of this title at rates that are not more than the rate for level V of the Executive Schedule.

5 USC 5316.

### § 732. Personnel management system

(a) The Comptroller General shall maintain a personnel management system. The Comptroller General may prescribe a regulation about the system only after notice and opportunity for public comment. A reprisal or threat of reprisal may not be made against an officer or employee of the General Accounting Office because of comments on a proposed regulation about the system.

(b) The personnel management system shall—

(1) include the principles of section 2301(b) of title 5;

5 USC 2301.

(2) prohibit personnel practices prohibited under section 2302(b) of title 5;

5 USC 2302.

(3) prohibit political activities prohibited under subchapter III of chapter 73 of title 5;

5 USC 7321.

(4) ensure that officers and employees of the Office are appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service;

5 USC 101.

(5) give a preference to an individual eligible for a preference in the executive branch of the United States Government in a way and to an extent consistent with a preference given an individual in the executive branch; and

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law, consistent with section 5301(a) of title 5.

5 USC 5301.

(c) Under the personnel management system—

Pay rates.

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the highest basic rate for GS-15;

(3) except as provided in section 733(a)(3)(B) of this title, basic pay rates of officers and employees of the Office shall be



5 USC 5332 note.

adjusted at the same time and to the same extent as basic pay rates of the General Schedule are adjusted;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 100 positions may be at rates not more than the highest rate for GS-18, less the number of positions in the General Accounting Office Senior Executive Service under section 733 of this title (except positions included in the Service under section 733(c) of this title); and

5 USC 5361.

(5) officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.

(d) The personnel management system shall provide—

5 USC 4302

(1) for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5;

(2) that the Comptroller General has the same responsibility for performance appraisals under this subsection as the Director of the Office of Personnel Management has under section 4302 of title 5;

(3) for a reduction in grade or removal of an officer or employee because of unacceptable performance consistent with section 4303 of title 5;

5 USC 7501 *et seq.*

(4) for other personnel actions consistent with chapter 75 of title 5; and

(5) a procedure for processing complaints and grievances not otherwise provided for under clauses (3) and (4) of this subsection or subsection (e) or (f)(1) of this section.

(e) The personnel management system shall provide—

(1) a procedure that ensures that each officer and employee of the General Accounting Office may form, join, or assist, or not form, join, or assist, an employee organization freely and without fear of penalty or reprisal; and

5 USC 7101 *et seq.*

(2) for a labor-management relations program consistent with chapter 71 of title 5.

Employment, non-discrimination.

(f)(1) The personnel management system shall—

(A) provide that all personnel actions affecting an officer, employee, or applicant for employment be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

5 USC 7201.

(B) include a minority recruitment program consistent with section 7201 of title 5.

(2) This subchapter and subchapter IV of this chapter do not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. However, for officers, employees, or applicants in the General Accounting Office—

(A) the General Accounting Office Personnel Appeals Board has the same authority over oversight and appeals matters as an executive agency has over oversight and appeals matters; and

(B) the Comptroller General has the same authority over matters (except oversight and appeals) as an executive agency has over matters (except oversight and appeals).

(3) This section does not affect a lawful effort to achieve equal employment opportunity through affirmative action.

(g) An officer or employee of the General Accounting Office completing at least one year of continuous service under a nontemporary appointment under the personnel management system acquires a competitive status for appointment to a position in the competitive service for which the officer or employee is qualified.

Competitive  
status.

### § 733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Office Senior Executive Service—

- (1) meeting the requirements of section 3131 of title 5; 5 USC 3131.
- (2) providing requirements for positions consistent with section 3132(a)(2) of title 5; 5 USC 3132.
- (3) providing rates of basic pay—
  - (A) not more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of title 5; and 5 USC 5382.
  - (B) adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5382 of title 5 are adjusted;
- (4) providing a performance appraisal system consistent with subchapter II of chapter 43 of title 5; 5 USC 4311.
- (5) allowing the Comptroller General to award ranks to officers and employees in the Office Senior Executive Service consistent with section 4507 of title 5; 5 USC 4507.
- (6) providing for removal consistent with section 3592 of title 5, and for removal or suspension consistent with section 7543 of title 5; and 5 USC 3592.  
5 USC 7543.
- (7) allowing the Comptroller General to pay performance awards to officers and employees of the Office Senior Executive Service consistent with section 5384 of title 5. 5 USC 5384.

(b) Except as provided in subsection (a), the Comptroller General may apply any part of title 5 that applies to an applicant for or officer or employee in the Senior Executive Service under title 5 to the Office Senior Executive Service. 5 USC 101.

(c) The Office Senior Executive Service may include positions referred to in section 731 (c), (d), or (e)(2) of this title.

(d) Section 732 (b)(6), (c), (d) (1)–(4), and (e) of this title does not apply to the Office Senior Executive Service.

### § 734. Assignments and details to Congress

(a) The Comptroller General may assign or detail an officer or employee of the General Accounting Office to full-time continuous duty with a committee of Congress for not more than one year.

(b) A committee of the Senate or a joint committee of Congress for which the Secretary of the Senate disburses amounts shall reimburse the Comptroller General for the pay of each officer or employee of the Office for the time the officer or employee is assigned or detailed to the committee or joint committee.

### § 735. Relationship to other laws

(a) Except as provided in section 733(c) of this title, this subchapter and subchapter IV of this chapter do not affect sections 702(b), 703, 731 (c)–(e), 772, 775 (a) and (d) of this title.

(b) Except as specifically provided in this subchapter and subchapter IV of this chapter, those subchapters do not change the

application of a law applicable to officers and employees of the General Accounting Office.

#### § 736. Authorization of appropriations

Amounts necessary to carry out this subchapter and subchapter IV of this chapter may be appropriated to the Comptroller General.

### SUBCHAPTER IV—PERSONNEL APPEALS BOARD

#### § 751. Organization

(a) The General Accounting Office has a General Accounting Office Personnel Appeals Board. The Board is composed of 5 members appointed by the Comptroller General. An individual may be appointed only if the individual—

(1) has 3 years full-time or part-time experience in adjudicating or arbitrating personnel matters;

(2) is not a current or former officer or employee of the Office;

(3) has the demonstrated ability, background, training, and experience necessary to be qualified specially to serve on the Board; and

(4) demonstrates a capacity and willingness to devote sufficient time to dispose of cases in a timely way.

(b) The Comptroller General shall appoint members only—

(1) from a written list of candidates, submitted to the Comptroller General in a way and at the time the Comptroller General requires, by any organization the Comptroller General believes is composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and

(2) after the Comptroller General consults with organizations representing employees of the Office and with any member of each committee of Congress, having legislative jurisdiction over the personnel management system maintained under section 732 of this title, whom the chairman of the committee designates.

Member's term  
of office.

(c) The term of a member of the Board is 3 years. A member may not be reappointed. An individual appointed to fill a vacancy occurring before the expiration of a term of office is appointed for the remainder of the term. However, if the unexpired part of a term is less than one year, the Comptroller General may appoint an individual for a 3-year term plus the unexpired part of the term. When the term of a member ends, the member may continue to serve until a successor takes office or for 6 months after the term expires, whichever is earlier.

(d) A member may be removed by a majority of the Board (except the member subject to removal) only for inefficiency, neglect of duty, or malfeasance in office. A member subject to removal shall be given notice and an opportunity for a hearing before the Board unless the member waives the opportunity in writing.

Pay rate.

(e) While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to pay at a rate equal to the daily rate for GS-18. Each member is entitled to travel expenses and per diem allowances under section 5703 of title 5.

5 USC 5703.

**§ 752. Chairman and General Counsel**

(a) The General Accounting Office Personnel Appeals Board shall select one of its members as Chairman. The Chairman is the chief executive and administrative officer of the Board.

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The annual rate of basic pay of the General Counsel may be not more than the maximum rate for GS-15.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the General Accounting Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

**§ 753. Duties and powers**

(a) The General Accounting Office Personnel Appeals Board may consider and order corrective or disciplinary action in a case arising from—

(1) an officer or employee appeal about a removal, suspension for more than 14 days, reduction in grade or pay, or furlough of not more than 30 days;

(2) a prohibited personnel practice under section 732(b)(2) of this title;

(3) a prohibited political activity under section 732(b)(3) of this title;

(4) a decision of an appropriate unit of employees for collective bargaining;

(5) an election or certification of a collective bargaining representative;

(6) a matter appealable to the Board under the labor-management relations program under section 732(e)(2) of this title, including a labor practice prohibited under section 732(e)(1) of this title;

(7) an action involving discrimination prohibited under section 732(f)(1) of this title; and

(8) an issue about Office personnel the Comptroller General by regulation decides the Board shall resolve.

(b) The Board may delegate to a member or a panel of members the authority to act under subsection (a) of this section. A decision of a member or panel under subsection (a) is deemed to be a final decision of the Board unless the Board reconsiders the decision under subsection (c) of this section.

(c) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(d) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

Regulations.

5 USC 7701,  
7702.

(2) on the operating procedure of the Board.

#### § 754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry out action the General Accounting Office Personnel Appeals Board orders under section 753 of this title.

#### § 755. Judicial review

A person may apply for review of a final decision under section 753(a) (1)–(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
- (2) not made consistent with required procedures; or
- (3) unsupported by substantial evidence.

### SUBCHAPTER V—ANNUITIES

#### § 771. Definitions

In this subchapter—

(1) “dependent child” means an unmarried dependent child (including a stepchild or adopted child) who is—

(A) under 18 years of age; or

(B) incapable of self-support because of physical or mental disability.

(2) “surviving spouse” means a surviving spouse of an individual who was a Comptroller General or retired Comptroller General and the spouse—

(A) was married to the individual for at least 2 years immediately before the individual died; or

(B) has not remarried and is the parent of issue by the marriage.

(3) service as a Comptroller General equals the number of years and complete months an individual is Comptroller General.

#### § 772. Annuity of the Comptroller General

(a) Except as provided in subsection (c) of this section, a Comptroller General serving a complete term as Comptroller General or who is retired for age under section 703(e)(1) of this title after serving at least 10 years is entitled to receive an annuity for life equal to the pay the Comptroller General is receiving on completion of the term or at the time of retirement. An annuity of a Comptroller General who completes a term before becoming 65 years of age is reduced by .25 percent for each complete month the Comptroller General is under 65 years of age.

(b) Except as provided in subsection (c) of this section, a Comptroller General becoming permanently disabled shall be retired and is entitled to receive an annuity for life equal to—

- (1) the pay of the Comptroller General at the time of retirement if the Comptroller General served at least 10 years; or
- (2) 50 percent of the pay if the Comptroller General served less than 10 years.

(c) A Comptroller General who, when appointed, is or has been subject to subchapter III of chapter 83 of title 5 remains subject to subchapter III unless the Comptroller General elects in writing to receive an annuity under this section. An election is irrevocable and must be made within 10 years and 60 days after the start of service as Comptroller General. A Comptroller General electing to receive an annuity under this section is entitled to a refund of the lump-sum credit to the account of the Comptroller General in the Civil Service Retirement and Disability Fund.

5 USC 8331.

(d) A Comptroller General (except a Comptroller General remaining subject to subchapter III of chapter 83 of title 5) shall—

- (1) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts as a contribution to the annuity—

- (A) 3.5 percent of the pay received as Comptroller General before deductions are made under clause (2)(A) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if electing survivor benefits under this subchapter; or

- (B) 8 percent of the pay received as Comptroller General before deductions are made under clause (2)(B) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if not electing survivor benefits under this subchapter; and

(2) have—

- (A) 3.5 percent of the pay received as Comptroller General deducted as a contribution to the annuity if electing survivor benefits under this subchapter; or

- (B) 8 percent of the pay received as Comptroller General deducted as a contribution to the annuity if not electing survivor benefits under this subchapter.

(e) A Comptroller General receiving benefits under this section may not receive retirement or disability benefits under another law of the United States.

### § 773. Election of survivor benefits

(a) To provide survivor benefits, a Comptroller General may elect in writing to reduce the pay and annuity of the Comptroller General. An election shall be made within 6 months of taking office or, if an election is made under section 772(c) of this title, by the 60th day after making an election under section 772(c).

(b) A Comptroller General electing to provide survivor benefits shall—

- (1) have 4.5 percent of the pay received as Comptroller General and annuity of the Comptroller General deducted; and

- (2) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts—

- (A) 4.5 percent of the pay and annuity received as Comptroller General before the deductions begin;

- (B) 4.5 percent of basic pay received as a member of Congress or for other civilian service on which a surviving spouse's annuity is computed under section 774(d) of this title; and

(C) 4 percent interest before January 1, 1948, and 4.5 percent interest after December 31, 1947, compounded every December 31, on amounts deposited.

(c) This subchapter does not prevent a surviving spouse or dependent child from receiving another annuity while receiving an annuity under section 774 of this title. However, service used in computing an annuity under section 774 may not be used in computing the other annuity.

#### § 774. Survivor annuities

Definitions.

(a) In this section—

(1) “allowable military service” means honorable active service of not more than 5 years in an armed force (including service in the National Guard when ordered to active duty for the United States Government), when the service is not creditable in computing another annuity.

(2) “other prior allowable service” means civilian service as an officer or employee of the Government or District of Columbia government not covered by subsection (d)(1) of this section.

5 USC 2107.

(3) “congressional employee” has the same meaning given that term in section 2107 of title 5.

(b) A survivor annuity shall be paid under this subchapter when a Comptroller General—

(1) makes an election under section 773 of this title;

(2) dies in office or while receiving an annuity under section 772 of this title;

(3) had at least 5 years of civilian service at death computed under subsections (a) and (d) of this section; and

(4) had deductions or deposits under section 773 of this title made for the last 5 years of civilian service.

(c) If the Comptroller General or retired Comptroller General is survived—

(1) only by a spouse, the surviving spouse shall receive an annuity computed under subsection (d) of this section beginning on the death of the Comptroller General or retired Comptroller General or when the spouse is 50 years of age, whichever is later;

(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

(A) \$1,548; or

(B) \$4,644 divided by the number of dependent children;

or

(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection divided by the number of dependent children;

(B) \$1,860; or

(C) \$5,580 divided by the number of dependent children.

(d) The annuity of a surviving spouse is equal to—

(1) 1.25 percent of the average annual pay (based on the 3 years of highest pay received as Comptroller General and other prior allowable service) times—

(A) the number of years of—

- (i) service as Comptroller General or a member of Congress; and
- (ii) prior allowable military service; and
- (B) not more than 15 years of prior allowable service as a congressional employee; plus
- (2) .75 percent of the average pay computed under clause (1) of this subsection times the number of years of other allowable service.
- (e) A surviving spouse's annuity may not be more than 40 percent of the average annual pay computed under subsection (d)(1) of this section. If a Comptroller General does not make the deposit under section 773(b) of this title, a surviving spouse's annuity shall be credited with the service during which a deposit was not made, unless the spouse elects not to have the service credited. However, the annuity shall be reduced by 10 percent of the amount of the unpaid deposit, computed on the date the Comptroller General or retired Comptroller General dies.

#### § 775. Refunds

(a) A Comptroller General separated from office before becoming entitled to receive an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted from pay or deposited as a contribution under section 772, plus 3 percent interest on the amount compounded every December 31.

(b) A Comptroller General making an election under section 773 of this title who is separated from office before becoming entitled to an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted under section 773 of this title, plus 4 percent interest before January 1, 1948, and 3 percent interest after December 31, 1947, compounded every December 31 until the separation date.

(c) A lump-sum refund of the amounts deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, shall be paid under subsection (d) of this section if—

(1) a Comptroller General dies in office before completing 5 years of civilian service under section 774 of this title or after completing 5 years of civilian service but without a survivor entitled to an annuity under section 774(b) and (c) of this title; or

(2) if a retired Comptroller General dies without a survivor entitled to an annuity under section 774(b) and (c) of this title.

(d) If a Comptroller General or retired Comptroller General dies before a refund is made under this section, the refund shall be paid in the following order of precedence:

(1) to a beneficiary the Comptroller General or retired Comptroller General designated in writing if the designation was received by the General Accounting Office before the death of the Comptroller General or retired Comptroller General.

(2) to a surviving spouse.

(3) to the children and to a descendant of a deceased child by representation.

(4) to the parents equally or, if only one surviving parent, to that survivor.

(5) to the executor or administrator of the estate of the Comptroller General or retired Comptroller General.



(6) to the next of kin that the General Counsel of the General Accounting Office decides is entitled to the refund under the laws of the domicile of the Comptroller General or retired Comptroller General at the time of death.

(e) The General Counsel is not subject to section 771(1) and (2) of this title when making a decision about a surviving spouse or child under subsection (c) or (d) of this section.

(f) If the annuities of all individuals entitled to survivor annuities under this subchapter end before the amount of annuities paid equals the amount deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, the remainder shall be paid under subsection (d) of this section.

#### **§ 776. Payment of survivor benefits**

(a) An annuity under section 774 of this title accrues monthly and is paid monthly on the first business day of the month after the month in which an annuity accrues.

(b)(1) A surviving spouse's annuity ends when the spouse remarries or dies.

(2) A dependent child's annuity ends when the child becomes 18 years of age, marries, or dies, whichever is earliest. However, if a child is not self-supporting because of a physical or mental disability, an annuity ends when the child recovers, marries, or dies.

(3) If a surviving spouse dies and a dependent child survives, the child's annuity is recomputed under section 774(c)(3) of this title.

(4) When a dependent child's annuity ends, the annuity of another dependent child is recomputed as if the child whose annuity has ended did not survive a Comptroller General or retired Comptroller General.

(c) An accrued annuity unpaid when the annuity of a survivor ends—

(1) for a reason except death, shall be paid to the survivor; and

(2) when a survivor dies, shall be paid in the following order of precedence:

(A) to the executor or administrator of the estate of the individual.

(B) if there is no executor or administrator, then after 30 days after the date of death, to an individual the General Counsel of the General Accounting Office decides is legally entitled to the payment.

(d)(1) A payment under subsection (c)(2)(B) of this section or section 775(d) of this title is a bar to recovery by another individual.

(2) A benefit under this section and sections 773-775 of this title is not assignable or subject to legal process.

#### **§ 777. Annuity increases**

(a) The Comptroller General shall compute—

(1) on January 1 of each year, or within a reasonable time after January 1, the percent change in the Consumer Price Index between June and December of the prior year; and

(2) on July 1 of each year, or within a reasonable time after July 1, the percent change in the Index between June of the same year and December of the prior year.

(b) If a percent change computed under subsection (a)(1) of this section indicates a rise in the Index, an annuity payable under this

subchapter and beginning before March 2 shall increase on March 1 by the percent change computed under subsection (a)(1), adjusted to the nearest .1 percent. If a percent change computed under subsection (a)(2) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before September 2 shall increase on September 1 by the percent change computed under subsection (a)(2), adjusted to the nearest .1 percent.

(c)(1) An increase under this section may not be more than an increase prescribed under section 8340(b) of title 5.

5 USC 8340.

(2) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General.

### **§ 778. Dependency and disability decisions**

The General Counsel of the General Accounting Office shall decide a question of dependency, disability, or dependency and disability under sections 773–776 of this title. A decision under this section is final.

### **§ 779. Use of appropriations**

Annuities and refunds under this subchapter shall be paid by the Comptroller General from appropriations of the General Accounting Office.

## **SUBTITLE II—THE BUDGET PROCESS**

<b>CHAPTER</b>	<b>Sec.</b>
11. THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION.	1101
13. APPROPRIATIONS .....	1301
15. APPROPRIATION ACCOUNTING .....	1501

### **CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION**

<b>Sec.</b>
1101. Definitions.
1102. Fiscal year.
1103. Budget ceiling.
1104. Budget and appropriations authority of the President.
1105. Budget contents and submission to Congress.
1106. Supplemental budget estimates and changes.
1107. Deficiency and supplemental appropriations.
1108. Preparation and submission of appropriations requests to the President.
1109. Current programs and activities estimates.
1110. Year-ahead requests for authorizing legislation.
1111. Improving economy and efficiency.
1112. Fiscal, budget, and program information.
1113. Congressional information.
1114. Budget information on consulting services.

### **§ 1101. Definitions**

In this chapter—

(1) “agency” includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) “appropriations” means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

#### **§ 1102. Fiscal year**

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

#### **§ 1103. Budget ceiling**

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

#### **§ 1104. Budget and appropriations authority of the President**

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

Waiver.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress.

Regulations.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

#### **§ 1105. Budget contents and submission to Congress**

(a) During the first 15 days of each regular session of Congress, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

- (1) information on activities and functions of the Government.
- (2) when practicable, information on costs and achievements of Government programs.
- (3) other desirable classifications of information.
- (4) a reconciliation of the summary information on expenditures with proposed appropriations.
- (5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.
- (6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—
  - (A) laws in effect when the budget is submitted; and
  - (B) proposals in the budget to increase revenues.
- (7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.
- (8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.
- (9) balanced statements of the—
  - (A) condition of the Treasury at the end of the prior fiscal year;
  - (B) estimated condition of the Treasury at the end of the current fiscal year; and
  - (C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.
- (10) essential information about the debt of the Government.
- (11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.
- (12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—
  - (A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and
  - (B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.
- (13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.
- (14) an allowance for unanticipated uncontrollable expenditures for that year.
- (15) a separate statement on each of the items referred to in section 301(a)(1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)–(5)).
- (16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3))) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

31 USC 1322.

31 USC 1302.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when

31 USC 25 and  
note.

Legislative and  
judicial branch  
expenditures.

the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

#### **§ 1106. Supplemental budget estimates and changes**

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before April 11 and July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

#### **§ 1107. Deficiency and supplemental appropriations**

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.

**§ 1108. Preparation and submission of appropriations requests to the President**

"Agency."

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

Supplemental appropriations.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

#### **§ 1109. Current programs and activities estimates**

(a) Before November 11 of each year, the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading "Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before January 1 of each year.

#### **§ 1110. Year-ahead requests for authorizing legislation**

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and 2d fiscal years.

#### **§ 1111. Improving economy and efficiency**

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

Study.

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

#### **§ 1112. Fiscal, budget, and program information**

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

"Agency."

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and



Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

Report to  
Congress.

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

**§ 1113. Congressional information**

(a) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

Report to  
Congress.

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

Report to  
Congress.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

- (A) plans for carrying out changes to classifications to meet information needs of Congress;
- (B) the status of information systems in the prior year; and
- (C) the use of standard classifications.

#### **§ 1114. Budget information on consulting services**

(a) The head of each agency shall include in the budget justification for the agency submitted each year to the Committees on Appropriations of both Houses of Congress—

- (1) amounts requested for consulting services;
- (2) the appropriation accounts from which the amounts are to be paid; and
- (3) a description of the need for the consulting services, including a list of the major programs requiring those services.

(b) The Inspector General or comparable official of each agency shall submit to Congress each year, with the budget justification for the agency, an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services. If the agency does not have an Inspector General or comparable official, the head of the agency or officer or employee designated by the head of the agency shall submit the evaluation.

### **CHAPTER 13—APPROPRIATIONS**

#### **SUBCHAPTER I—GENERAL**

- |       |  |
|-------|--|
| Sec.  |  |
| 1301. | Application.                                   |
| 1302. | Determining amounts appropriated.              |
| 1303. | Effect of changes in titles of appropriations. |
| 1304. | Judgments, awards, and compromise settlements. |
| 1305. | Miscellaneous permanent appropriations.        |
| 1306. | Use of foreign credits.                        |
| 1307. | Public building construction.                  |
| 1308. | Telephone and metered services.                |
| 1309. | Social security tax.                           |
| 1310. | Appropriations for private organizations.      |

#### **SUBCHAPTER II—TRUST FUNDS AND REFUNDS**

- |       |   |
|-------|---|
| 1321. | Trust funds.  |
| 1322. | Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited. |
| 1323. | Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts.  |
| 1324. | Refund of internal revenue collections.   |

#### **SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES**

- |       |   |
|-------|---|
| 1341. | Limitations on expending and obligating amounts.  |
| 1342. | Limitation on voluntary services.   |
| 1343. | Buying and leasing passenger motor vehicles and aircraft.                                   |
| 1344. | Passenger motor vehicle and aircraft use.   |
| 1345. | Expenses of meetings.   |
| 1346. | Commissions, councils, boards, and interagency and similar groups.                          |
| 1347. | Appropriations or authorizations required for agencies in existence for more than one year. |
| 1348. | Telephone installation and charges.   |

- Sec.  
 1349. Adverse personnel actions.  
 1350. Criminal penalty.  
 1351. Reports on violations.

## SUBCHAPTER I—GENERAL

### § 1301. Application

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

### § 1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

### § 1303. Effect of changes in titles of appropriations

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

### § 1304. Judgments, awards, and compromise settlements

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

(1) payment is not otherwise provided for;

(2) payment is certified by the Comptroller General; and

(3) the judgment, award, or settlement is payable—

(A) under section 2414, 2517, 2672, or 2677 of title 28;

(B) under section 3723 of this title;

(C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(b)(1) Interest may be paid from the appropriation made by this section—

28 USC 2414,  
2517, 2672, 2677.

10 USC 2733,  
2734.  
32 USC 715.

28 USC 2411. (A) on a judgment of a district court under section 2411(b) of title 28, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance; or

28 USC 2516. (B) on a judgment of the Court of Claims under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

28 USC 2414, 2517, 2518. (c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518 of title 28 when the judgment or settlement arises out of an express or implied contract made by—

(A) the Army and Air Force Exchange Service;

(B) the Navy Exchanges;

(C) the Marine Corps Exchanges;

(D) the Coast Guard Exchanges; or

(E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

#### **§ 1305. Miscellaneous permanent appropriations**

Necessary amounts are appropriated for the following:

(1) to pay the proceeds of the personal estate of a United States citizen dying abroad to the legal representative of the deceased on proper demand and proof.

(2) to pay interest on the public debt under laws authorizing payment.

(3) to pay proceeds from derelict and salvage cases adjudged by the courts of the United States to salvors.

31 USC 711. (4) to make payments required under contracts made under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) for the payment of interest on obligations guaranteed by the Secretary of Housing and Urban Development under section 108.

(5) to make payments required under contracts made under section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b)) for projects or programs for which amounts had been committed before January 1, 1975, and for which amounts have not been appropriated.

(6) to pay for the construction of buildings and expenses of the Smithsonian Institution, at 6 percent on the fund derived from the bequest of James Smithson.

#### **§ 1306. Use of foreign credits**

Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.

#### **§ 1307. Public building construction**

Amounts appropriated to construct public buildings remain available until completion of the work. When a building is completed and

outstanding liabilities for the construction are paid, balances remaining shall revert immediately to the Treasury.

#### **§ 1308. Telephone and metered services**

Charges for telephone and metered services (such as gas, electricity, water, and steam) for a time period beginning in one fiscal year or allotment period and ending in another fiscal year or allotment period may be charged against the appropriation or allotment current at the end of the time period covered by the service.

#### **§ 1309. Social security tax**

Amounts made available for the compensation of officers and employees of the United States Government may be used to pay taxes imposed on an agency as an employer under chapter 21 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq.).

#### **§ 1310. Appropriations for private organizations**

(a) The Secretary of the Treasury shall credit an appropriation for a private organization to the appropriate fiscal official of the organization. The credit shall be carried on the accounts of—

(1) the Treasury; or

(2) a designated depository of the United States Government (except a national bank).

(b) The fiscal official may pay an amount out of the appropriation only on a check of the fiscal official—

(1) payable to the order of the person to whom payment is to be made; and

(2) that states the specific purpose for which the amount is to be applied.

(c)(1) The fiscal official may pay an amount of less than \$20 out of the appropriation on a check—

(A) payable to the order of the fiscal official; and

(B) that states the amount is to be applied to small claims.

(2) The fiscal official shall provide the Secretary or the designated depository on which the check is drawn with a certified list of the claims. The list shall state the kind and amount of each claim and the name of each claimant.

### **SUBCHAPTER II—TRUST FUNDS AND REFUNDS**

#### **§ 1321. Trust funds**

(a) The following are classified as trust funds:

(1) Philippine special fund (customs duties).

(2) Philippine special fund (internal revenue).

(3) Unclaimed condemnation awards, Department of the Treasury.

(4) Naval reservation, Olangapo civil fund.

(5) Personal funds of deceased inmates, Naval Home.

(6) Return to deported aliens of passage money collected from steamship companies.

(7) Vocational rehabilitation, special fund.

(8) Library of Congress gift fund.

(9) Library of Congress trust fund, investment account.

(10) Library of Congress trust fund, income from investment account.

(11) Library of Congress trust fund, permanent loan.

- (12) Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act.
- (13) Cooperative work, Forest Service.
- (14) Wages and effects of American seamen, Department of Commerce.
- (15) Pension money, Saint Elizabeths Hospital.
- (16) Personal funds of patients, Saint Elizabeths Hospital.
- (17) National Park Service, donations.
- (18) Purchase of lands, national parks, donations.
- (19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.
- (20) Indian moneys, proceeds of labor, agencies, schools, and so forth.
- (21) Funds of Federal prisoners.
- (22) Commissary funds, Federal prisons.
- (23) Pay of the Navy, deposit funds.
- (24) Pay of Marine Corps, deposit funds.
- (25) Pay of the Army, deposit fund.
- (26) Preservation birthplace of Abraham Lincoln.
- (27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.
- (28) Funds contributed for flood control, Sacramento River, California.
- (29) Effects of deceased employees, Department of the Treasury.
- (30) Money and effects of deceased patients, Public Health Service.
- (31) Effects of deceased employees, Department of Commerce.
- (32) Topographic survey of the United States, contributions.
- (33) National Institutes of Health, gift fund.
- (34) National Institutes of Health, conditional gift fund.
- (35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.
- (36) Estates of deceased personnel, Department of the Army.
- (37) Effects of deceased employees, Department of the Interior.
- (38) Fredericksburg and Spotsylvania County Battlefields memorial fund.
- (39) Petersburg National Military Park fund.
- (40) Gorgas memorial laboratory quotas.
- (41) Contributions to International Boundary Commission, United States and Mexico.
- (42) Salvage proceeds, American vessels.
- (43) Wages due American seamen.
- (44) Federal Industrial Institution for Women, contributions for chapel.
- (45) General post fund, National Homes, Veterans' Administration.
- (46) Repatriation of American seamen.
- (47) Expenses, public survey work, general.
- (48) Expenses, public survey work, Alaska.
- (49) Funds contributed for improvement of roads, bridges, and trails, Alaska.
- (50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.
- (51) Washington redemption fund.
- (52) Permit fund, District of Columbia.

- (53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.
  - (54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.
  - (55) Miscellaneous trust fund deposits, District of Columbia.
  - (56) Surplus fund, District of Columbia.
  - (57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.
  - (58) Inmates' fund, workhouse and reformatory, District of Columbia.
  - (59) Soldiers' Home, permanent fund.
  - (60) Chamber Music Auditorium, Library of Congress.
  - (61) Bequest of Gertrude Hubbard.
  - (62) Puerto Rico special fund (Internal Revenue).
  - (63) Miscellaneous trust funds, Department of State.
  - (64) Funds contributed for improvement of (name of river or harbor).
  - (65) Funds advanced for improvement of (name of river or harbor).
  - (66) Funds contributed for Indian projects.
  - (67) Miscellaneous trust funds of Indian tribes.
  - (68) Ship's stores profits, Navy.
  - (69) Completing Surveys within Railroad Land Grants.
  - (70) Memorial to Women of World War, contributions.
  - (71) Funds contributed for Memorial to John Ericsson.
  - (72) American National Red Cross Building, contributions.
  - (73) Estate of decedents, Department of State, Trust Fund.
  - (74) Funds due Incompetent Beneficiaries, Veterans' Administration.
  - (75) To promote the Education of the Blind (principal).
  - (76) Paving Government Road across Fort Sill Military Reservation, Okla.
  - (77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.
  - (78) Funds Contributed for Flood Control (name of river, harbor, or project).
  - (79) Matured obligations of the District of Columbia.
  - (80) To promote the education of the blind (interest).
  - (81) Soldiers' Home, interest account.
  - (82) Post-Vietnam Era Veterans Education Account, Veterans' Administration.
  - (83) United States Government life insurance fund, Veterans' Administration.
  - (84) Estates of deceased soldiers, United States Army.
  - (85) Teachers Retirement Fund Deductions, District of Columbia.
  - (86) Teachers Retirement Fund, Government Reserves, District of Columbia.
  - (87) Expenses of Smithsonian Institution Trust Fund (principal).
  - (88) Civil Service Retirement and Disability Fund.
  - (89) Canal Zone Retirement and Disability Fund.
  - (90) Foreign Service Retirement and Disability Fund.
- (b) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be



deposited in an appropriate trust fund account in the Treasury. Amounts accruing to these funds (except to the trust fund "Soldiers' Home, Permanent Fund") are appropriated to be disbursed in compliance with the terms of the trust. Expenditures from the trust fund "Soldiers' Home, Permanent Fund" shall be made only under annual appropriations. Those appropriations are authorized to be made.

**§ 1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited**

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" that part of the balance of a trust fund account named in section 1321(a)(1)–(82) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown".

(b) Except as provided in subsection (c) of this section, necessary amounts are appropriated to the Secretary of the Treasury to make payments from—

(1) the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown"; and

(2) the United States Government account "Refund of Moneys Erroneously Received and Covered" and other collections erroneously deposited that are not properly chargeable to another appropriation.

(c)(1) The Secretary of the Treasury shall hold in perpetuity in the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" the balance remaining after the final distribution of unclaimed Postal Savings System deposits under section 1(a) of the Act of August 13, 1971 (Public Law 92-117, 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit about the disposition of unclaimed or abandoned property.

(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims because of payments made under paragraph (1) of this subsection.

**§ 1323. Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts**

(a) Amounts from the following sources held in checking accounts of disbursing officials shall be deposited in the Treasury to the appropriate trust fund receipt accounts:

(1) unearned money, lands (Department of the Interior).

(2) reentry permit fees (Department of Justice).

(3) naturalization fees (Department of Justice).

(4) registry fees (Department of Justice).

(b) Amounts deposited under subsection (a) of this section are appropriated for refunds. Earned parts of those amounts shall be transferred and credited to the appropriate receipt fund accounts.

(c) Donations, quasi-public amounts, and unearned amounts shall be deposited in the Treasury as trust funds and are appropriated for disbursement under the terms of the trusts when the donation or amount is—

- (1) administered by officers and employees of the United States Government; and
- (2) carried in checking accounts of disbursing officials or others required to account to the Comptroller General (except clerks and marshals of the United States district courts).

#### **§ 1324. Refund of internal revenue collections**

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

- (1) claims for prior fiscal years; and
- (2) accounts arising under—
  - (A) “Allowance or drawback (Internal Revenue)”;
  - (B) “Redemption of stamps (Internal Revenue)”;
  - (C) “Refunding legacy taxes, Act of March 30, 1928”;
  - (D) “Repayment of taxes on distilled spirits destroyed by casualty”; and
  - (E) “Refunds and payments of processing and related taxes”.

(b) Disbursements may be made from the appropriation made by this section only for—

- (1) refunds to the limit of liability of an individual tax account; and
- (2) refunds due from credit provisions of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) enacted before January 1, 1978.

### **SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES**

#### **§ 1341. Limitations on expending and obligating amounts**

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

- (A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or
- (B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

#### **§ 1342. Limitation on voluntary services**

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply

to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

**§ 1343. Buying and leasing passenger motor vehicles and aircraft**

(a) In this section, buying a passenger motor vehicle or aircraft includes a transfer of the vehicle or aircraft between agencies.

(b) An appropriation may be expended to buy or lease passenger motor vehicles only—

(1) for the use of—

(A) the President;

(B) the secretaries to the President; or

(C) the heads of executive departments listed in section 101 of title 5; or

(2) as specifically provided by law.

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that—

(A) includes the price of systems and equipment the Administrator of General Services decides is incorporated customarily in standard passenger motor vehicles completely equipped for ordinary operation;

(B) includes the value of a vehicle used in exchange;

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

(2) Additional systems and equipment may be bought for a passenger motor vehicle if the Administrator decides the purchase is appropriate. The price of additional systems or equipment is not included in deciding whether the cost of the vehicle is within a maximum price specified in a law.

(d) An appropriation (except an appropriation for the armed forces) is available to buy, maintain, or operate an aircraft only if the appropriation specifically authorizes the purchase, maintenance, or operation.

(e) This section does not apply to—

(1) buying, maintaining, and repairing passenger motor vehicles by the United States Capitol Police;

(2) buying, maintaining, and repairing vehicles necessary to carry out projects to improve, preserve, and protect rivers and harbors; or

(3) leasing, maintaining, repairing, or operating motor passenger vehicles necessary in the field work of the Department of Agriculture.

**§ 1344. Passenger motor vehicle and aircraft use**

(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment except—

(1) medical officers on out-patient medical service; and

(2) officers or employees performing field work requiring transportation between their domiciles and places of employment.

ment when the transportation is approved by the head of the agency.

(b) This section does not apply to a motor vehicle or aircraft for the official use of—

- (1) the President;
- (2) the heads of executive departments listed in section 101 of title 5; or
- (3) principal diplomatic and consular officials.

#### **§ 1345. Expenses of meetings**

Except as specifically provided by law, an appropriation may not be used for travel, transportation, and subsistence expenses for a meeting. This section does not prohibit—

- (1) an agency from paying the expenses of an officer or employee of the United States Government carrying out an official duty; and
- (2) the Secretary of Agriculture from paying necessary expenses for a meeting called by the Secretary for 4-H Boys and Girls Clubs as part of the cooperative extension work of the Department of Agriculture.

#### **§ 1346. Commissions, councils, boards, and interagency and similar groups**

(a) Except as provided in this section—

(1) public money and appropriations are not available to pay—

(A) the pay or expenses of a commission, council, board, or similar group, or a member of that group;

(B) expenses related to the work or the results of work or action of that group; or

(C) for the detail or cost of personal services of an officer or employee from an executive agency in connection with that group; and

(2) an accounting or disbursing official, absent a special appropriation to pay the account or charge, may not allow or pay an account or charge related to that group.

(b) Appropriations of an executive agency are available for the expenses of an interagency group conducting activities of interest common to executive agencies when the group includes a representative of the agency. The representatives receive no additional pay because of membership in the group. An officer or employee of an executive agency not a representative of the group may not receive additional pay for providing services for the group.

(c) Subject to section 1347 of this title, this section does not apply to—

(1) commissions, councils, boards, or similar groups authorized by law;

(2) courts-martial or courts of inquiry of the armed forces; or

(3) the contingent fund related to foreign relations at the disposal of the President.

#### **§ 1347. Appropriations or authorizations required for agencies in existence for more than one year**

(a) An agency in existence for more than one year may not use amounts otherwise available for obligation to pay its expenses without a specific appropriation or specific authorization by law. If the

principal duties and powers of the agency are substantially the same as or similar to the duties and powers of an agency established by executive order, the agency established later is deemed to have been in existence from the date the agency established by the order came into existence.

(b) Except as specifically authorized by law, another agency may not use amounts available for obligation to pay expenses to carry out duties and powers substantially the same as or similar to the principal duties and powers of an agency that is prohibited from using amounts under this section.

#### **§ 1348. Telephone installation and charges**

(a)(1) Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences.

(2) Under regulations of the Secretary of State, appropriations may be used to install and pay for the use of telephones in residences owned or leased by the United States Government in foreign countries for the use of the Foreign Service. Subsection (b) of this section applies to long-distance calls made on those telephones.

(b) Appropriations of an agency are available to pay charges for a long-distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are available only if the head of the agency also certifies that the call is necessary in the interest of the Government.

(c) Under regulations prescribed by the Secretary of the Army on recommendation of the Chief of Engineers, not more than \$30,000 may be expended each fiscal year to install and use in private residences telephones required for official business in constructing and operating locks and dams for navigation, flood control, and related water uses.

#### **§ 1349. Adverse personnel actions**

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

#### **§ 1350. Criminal penalty**

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

#### **§ 1351. Reports on violations**

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section

1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

## CHAPTER 15—APPROPRIATION ACCOUNTING

### SUBCHAPTER I—GENERAL

Sec.

- 1501. Documentary evidence requirement for Government obligations.
- 1502. Balances available.
- 1503. Comptroller General reports of amounts for which no accounting is made.

### SUBCHAPTER II—APPORTIONMENT

- 1511. Definition and application.
- 1512. Apportionment and reserves.
- 1513. Officials controlling apportionments.
- 1514. Administrative division of apportionments.
- 1515. Authorized apportionments necessitating deficiency or supplemental appropriations.
- 1516. Exemptions.
- 1517. Prohibited obligations and expenditures.
- 1518. Adverse personnel actions.
- 1519. Criminal penalty.

### SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

- 1531. Transfers of functions and activities.
- 1532. Withdrawal and credit.
- 1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities.
- 1534. Adjustments between appropriations.
- 1535. Agency agreements.
- 1536. Crediting payments from purchases between executive agencies.
- 1537. Services between the United States Government and the District of Columbia government.

### SUBCHAPTER IV—CLOSING ACCOUNTS

- 1551. Definitions and application.
- 1552. Procedure for appropriation accounts available for definite periods.
- 1553. Availability of appropriation accounts to pay obligations.
- 1554. Review of appropriation accounts.
- 1555. Withdrawal of unobligated balances of appropriations for indefinite periods.
- 1556. Comptroller General reports on appropriation accounts.
- 1557. Authorization to exempt.

### SUBCHAPTER I—GENERAL

#### § 1501. Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

- (A) when necessary because of a public exigency;
- (B) for perishable subsistence supplies; or
- (C) within specific monetary limits;

(5) a grant or subsidy payable—

- (A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;
- (B) under an agreement authorized by law; or
- (C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

#### **§ 1502. Balances available**

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

#### **§ 1503. Comptroller General reports of amounts for which no accounting is made**

The Comptroller General shall make a special report each year to Congress on recommendations for changes in laws, that the Comptroller General believes may be in the public interest, about amounts—

(1) for which no accounting is made to the Comptroller General; and

(2) that are in—

- (A) accounts of the United States Government; or
- (B) the custody of an officer or employee of the Government if the Government is financially concerned.

### **SUBCHAPTER II—APPORTIONMENT**

#### **§ 1511. Definition and application**

(a) In this subchapter, “appropriations” means—

- (1) appropriated amounts;
- (2) funds; and

(3) authority to make obligations by contract before appropriations.

(b) This subchapter does not apply to—

(1) amounts (except amounts for administrative expenses) available—

(A) for price support and surplus removal of agricultural commodities; and

(B) under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c);

(2) a corporation getting amounts to make loans (except paid in capital amounts) without legal liability on the part of the United States Government; and

(3) the Senate, the House of Representatives, a committee of Congress, a member, officer, employee, or office of either House of Congress, or the Office of the Architect of the Capitol or an officer or employee of that Office.

### § 1512. Apportionment and reserves

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

*Ante*, p. 907.

31 USC 1322  
note.



(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

#### **§ 1513. Officials controlling apportionments**

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

#### **§ 1514. Administrative division of apportionments**

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reappropriations of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reappropriation.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

**§ 1515. Authorized apportionments necessitating deficiency or supplemental appropriations**

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates a necessity for a deficiency or supplemental appropriation to the extent necessary to permit payment of pay increases for prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5.

5 USC 5341.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

Report to Congress.

**§ 1516. Exemptions**

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—

(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

#### **§ 1517. Prohibited obligations and expenditures**

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

Report to  
President and  
Congress.

#### **§ 1518. Adverse personnel actions**

An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

#### **§ 1519. Criminal penalty**

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

### **SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS**

#### **§ 1531. Transfers of functions and activities**

(a) The balance of an appropriation available and necessary to finance or discharge a function or activity transferred or assigned under law within an executive agency or from one executive agency to another may be transferred to and used—

(1) by the organizational unit or agency to which the function or activity was transferred or assigned; and

(2) for a purpose for which the appropriation was originally available.

(b) The head of the executive agency determines the amount that, with the approval of the President, is necessary to be transferred when the transfer or assignment of the function or activity is within the agency. The President determines the amount necessary to be transferred when the transfer or assignment of the function or activity is from one executive agency to another.

(c) A balance transferred under this section is—

(1) credited to an applicable existing or new appropriation account;

(2) merged with the amount in an account to which the balance is credited; and

(3) with the amount with which the balance is merged, accounted for as one amount.

(d) New appropriation accounts may be established to carry out subsection (c)(1) of this section.

#### **§ 1532. Withdrawal and credit**

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

#### **§ 1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities**

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

#### **§ 1534. Adjustments between appropriations**

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

#### **§ 1535. Agency agreements**

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

(b) Notwithstanding subsection (a)(3) of this section, the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration may place

orders under this section for goods and services that an agency or unit filling the order may be able to provide or procure by contract.

(c) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

#### **§ 1536. Crediting payments from purchases between executive agencies**

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

#### **§ 1537. Services between the United States Government and the District of Columbia government**

(a) To prevent duplication and to promote efficiency and economy, an officer or employee of—

(1) the United States Government may provide services to the District of Columbia government; and

(2) the District of Columbia government may provide services to the United States Government.

(b)(1) Services under this section shall be provided under an agreement—

(A) negotiated by officers and employees of the two governments; and

(B) approved by the Director of the Office of Management and Budget and the Mayor of the District of Columbia.

(2) Each agreement shall provide that the cost of providing the services shall be borne in the way provided in subsection (c) of this section by the government to which the services are provided at rates or charges based on the actual cost of providing the services.

(3) To carry out an agreement made under this subsection, the agreement may provide for the delegation of duties and powers of officers and employees of—

(A) the District of Columbia government to officers and employees of the United States Government; and

(B) the United States Government to officers and employees of the District of Columbia government.

(c) In providing services under an agreement made under subsection (b) of this section—

(1) costs incurred by the United States Government may be paid from appropriations available to the District of Columbia government officer or employee to whom the services were provided; and

(2) costs incurred by the District of Columbia government may be paid from amounts available to the United States Government officer or employee to whom the services were provided.

(d) When requested by the Director of the United States Secret Service, the Chief of the Metropolitan Police shall assist the Secret Service and the Executive Protective Service on a non-reimbursable basis in carrying out their protective duties under section 302 of title 3 and section 3056 of title 18.

3 USC 302.  
18 USC 3056.

#### SUBCHAPTER IV—CLOSING ACCOUNTS

##### § 1551. Definitions and application

(a) In this subchapter—

(1) an obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) an unobligated balance is the difference between the obligated balance and the total unexpended balance.

(b) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

##### § 1552. Procedure for appropriation accounts available for definite periods

(a) Each appropriation account available for obligation for a definite period is closed as follows:

(1) The obligated balance is transferred on September 30th of the 2d fiscal year after the period of availability ends to an appropriation account of the agency responsible for paying the obligation. Amounts transferred from all appropriation accounts for the same general purpose are merged in the account for paying obligations.

(2) The unobligated balance is withdrawn at the end of the period of availability for obligation and reverts to the Treasury or, if derived only from a special or trust fund and not otherwise

provided, reverts to the fund from which derived. The withdrawal shall be made not later than the November 15 occurring after the period of availability ends. When the head of the agency decides that part of a withdrawn unobligated balance is required to pay obligations and make adjustments, that part may be restored to the appropriate account.

(b) Collections authorized to be credited to an appropriation, but not received before the transfer of the obligated balance under subsection (a)(1) of this section, are credited to the account into which the obligated balance was transferred. However, collections made by the Comptroller General for other agencies may be deposited in the Treasury as miscellaneous receipts.

(c) A withdrawal made under subsection (a)(2) of this section is accounted for and reported as of the fiscal year in which the appropriation concerned expires for obligation.

(d) The obligated balance of an appropriation made available for obligation for a definite period under a discontinued appropriation heading may be merged at the end of the 2d complete fiscal year after the fiscal year for which an appropriation is available for obligation—

(1) in the appropriation accounts provided under subsection (a) of this section; or

(2) in other accounts established under this subchapter for discontinued appropriations of the agency responsible for paying the obligations.

#### **§ 1553. Availability of appropriation accounts to pay obligations**

(a) Each appropriation account established under section 1552 of this title is accounted for separately and remains available until expended to pay obligations chargeable against any appropriation from which the account is derived.

(b) Under regulations prescribed by the Comptroller General, obligations under subsection (a) of this section may be paid without prior action of the Comptroller General. However, this subchapter does not—

(1) relieve the Comptroller General of the duty to make decisions requested under law; or

(2) affect the authority of the Comptroller General to settle claims and accounts.

#### **§ 1554. Review of appropriation accounts**

(a) The head of each agency shall review at least once a fiscal year each appropriation account established for the agency under section 1552 of this title. If the undisbursed balance is more than the obligated balance in the account, the excess shall be withdrawn in the way provided in section 1552(a)(2) of this title. If the obligated balance is more than the undisbursed balance, the excess may be restored to the account in an amount that is not more than the remaining unobligated balances of the appropriations available for the same general purposes. Before restoring an amount, the head of the agency shall make a report on the restoration as may be required by the President.

(b) The review required under subsection (a) of this section shall be made as of the end of each fiscal year. A withdrawal or restoration under this section shall be made not later than December 31 of the following fiscal year. However, a withdrawal or restoration is accounted for and reported as of the close of the fiscal year to which

the review relates. A review made as of any other date for which a withdrawal or restoration is made after December 31 shall be accounted for and reported as transactions of the fiscal year in which made.

**§ 1555. Withdrawal of unobligated balances of appropriations for indefinite periods**

(a) An unobligated balance of an appropriation for an indefinite period shall be withdrawn in the way provided in section 1552(a)(2) of this title when the head of the agency concerned decides that the purposes for which the appropriation was made have been carried out or when no disbursement is made against the appropriation for 2 consecutive fiscal years.

(b) An amount of an appropriation withdrawn under this section may be restored to the applicable appropriation account to pay obligations and to settle accounts.

**§ 1556. Comptroller General reports on appropriation accounts**

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

- (1) the head of the agency concerned;
- (2) the Secretary of the Treasury; and
- (3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts established under section 1552 of this title. By the 30th day after receiving a report, the head of the agency concerned shall carry out actions required by section 1554 of this title that the report shows is necessary.

**§ 1557. Authorization to exempt**

A provision of an appropriation law may exempt an appropriation from this subchapter and fix the period for which the appropriation remains available for expenditure.

## SUBTITLE III—FINANCIAL MANAGEMENT

CHAPTER	Sec.
31. PUBLIC DEBT.....	3101
33. DEPOSITING, KEEPING, AND PAYING MONEY.....	3301
35. ACCOUNTING AND COLLECTION.....	3501
37. CLAIMS.....	3701

### CHAPTER 31—PUBLIC DEBT

#### SUBCHAPTER I—BORROWING AUTHORITY

Sec.
3101. Public debt limit.
3102. Bonds.
3103. Notes.
3104. Certificates of indebtedness and Treasury bills.
3105. Savings bonds and savings certificates.
3106. Retirement and savings bonds.
3107. Increasing interest rates and investment yields on retirement bonds.
3108. Prohibition against circulation privilege.
3109. Tax and loss bonds.
3110. Sale of obligations of governments of foreign countries.
3111. New issue used to buy, redeem, or refund outstanding obligations.
3112. Sinking fund for retiring and cancelling bonds and notes.
3113. Accepting gifts.



## SUBCHAPTER II—ADMINISTRATIVE

## Sec.

- 3121. Procedure.
- 3122. Banks and trust companies as depositaries.
- 3123. Payment of obligations and interest on the public debt.
- 3124. Exemption from taxation.
- 3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations.
- 3126. Losses and relief from liability related to redeeming savings bonds and notes.
- 3127. Credit to officers, employees, and agents for stolen Treasury notes.
- 3128. Proof of death to support payment.
- 3129. Appropriation to pay expenses.

## SUBCHAPTER I—BORROWING AUTHORITY

**§ 3101. Public debt limit**

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than \$400,000,000,000 outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX of the Rules of the House of Representatives or otherwise.

(c) The face amount of beneficial interests and participations (except those held by their issuer) issued under section 302(c) of the National Housing Act (12 U.S.C. 1717(c)) from July 1, 1967, through June 30, 1968, and outstanding at any time shall be included in the amount taken into account in deciding whether the face amount requirement of subsection (b) of this section has been exceeded. This subsection does not require a change in the budgetary accounting for beneficial interests and participations.

**§ 3102. Bonds**

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue bonds of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may issue bonds authorized by this section to the public and to Government accounts at any annual interest rate and prescribe conditions under section 3121 of this title. However, the face amount of bonds issued under this section and held by the public with interest rates of more than 4.25 percent a year may not be more than \$70,000,000,000.

(b) The Secretary shall offer the bonds authorized under this section first as a popular loan under regulations of the Secretary that allow the people of the United States as nearly as possible an equal opportunity to participate in subscribing to the offered bonds. However, the bonds may be offered in a way other than as a popular loan when the Secretary decides the other way is in the public interest.

(c)(1) When the Secretary decides it is in the public interest in making a bond offering under this section, the Secretary may—

(A) make full allotments on receiving applications for smaller amounts of bonds to subscribers applying before the closing date the Secretary sets for filing applications;

(B) reject or reduce allotments on receiving applications filed after the closing date or for larger amounts;

(C) reject or reduce allotments on receiving applications from incorporated banks and trust companies for their own account and make full allotments or increase allotments to other subscribers; and

(D) prescribe a graduated scale of allotments.

(2) The Secretary shall prescribe regulations applying to all popular loan subscribers similarly situated governing a reduction or increase of an allotment under paragraph (1) of this subsection.

Regulations.

(d) The Secretary may make special arrangements for subscriptions from members of the armed forces. However, bonds issued to those members must be the same as other bonds of the same issue.

(e) The Secretary may dispose of any part of a bond offering not taken and may prescribe the price and way of disposition.

### § 3103. Notes

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue notes of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may prescribe conditions under section 3121 of this title. Notwithstanding section 3121(a)(5) of this title, the payment date of each series of notes issued shall be at least one year but not more than 10 years from the date of issue.

(b) The Government may redeem any part of a series of notes before maturity by giving at least 4 months' notice but not more than one year's notice.

(c) The holder of a note of one series issued under this section with the same issue date as another series of notes issued under this section may convert, at par value, a note of the holder for a note of the other series.

### § 3104. Certificates of indebtedness and Treasury bills

(a) The Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may buy, redeem, and make refunds under section 3111 of this title. For amounts borrowed, the Secretary may issue—

(1) certificates of indebtedness of the Government; and

(2) Treasury bills of the Government.

(b) The Secretary may prescribe conditions for issuing certificates of indebtedness and Treasury bills under section 3121 of this title and conditions under which the certificates and bills may be redeemed before maturity. Notwithstanding section 3121(a)(5) of this title, the payment date of certificates of indebtedness and Treasury bills may not be more than one year after the date of issue.

(c) Treasury bills issued under this section may not be accepted before maturity to pay principal or interest on obligations of governments of foreign countries that are held by the United States Government.

**§ 3105. Savings bonds and savings certificates**

(a) With the approval of the President, the Secretary of the Treasury may issue savings bonds and savings certificates of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. Proceeds from the bonds and certificates shall be used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. Savings bonds shall mature not more than 20 years from the date of issue. Savings certificates shall mature not more than 10 years from the date of issue. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) Except as provided in paragraph (2) of this subsection, the interest rate on, and the issue price of, savings bonds and savings certificates and the conditions under which they may be redeemed may not give an investment yield of more than 5.5 percent a year compounded semiannually. The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issuance of the bond and ending on the last day of the month before the date of redemption.

(2) With the approval of the President, the Secretary may fix the investment yield for savings bonds at any percent a year compounded semiannually. However, the total of the increases in the yield that are effective for a 6-month period may not be more than one percent a year compounded semiannually.

(3) With the approval of the President, the Secretary may prescribe regulations providing that owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection. However, series E and H savings bonds earning a higher rate of interest before the regulations are prescribed shall continue to earn a higher rate of interest consistent with paragraph (1).

(c) The Secretary may prescribe for savings bonds and savings certificates issued under this section—

- (1) the form and amount of an issue and series;
- (2) the way in which they will be issued;
- (3) the conditions, including restrictions on transfer, to which they will be subject;
- (4) conditions governing their redemption;
- (5) their sales price and denominations (expressed in terms of the maturity value);
- (6) a way to evidence payments for or on account of them and to provide for the exchange of savings certificates for savings bonds; and
- (7) the maximum amount issued in a year that may be held by one person.

(d) The Secretary may authorize financial institutions to make payments to redeem savings bonds and savings notes. A financial institution may be a paying agent only if the institution—

- (1) is incorporated under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States;

(2) in the usual course of business accepts, subject to withdrawal, money for deposit or the purchase of shares;

(3) is under the supervision of a banking authority of the jurisdiction in which it is incorporated;

(4) has a regular office to do business; and

(5) is qualified under regulations prescribed by the Secretary in carrying out this subsection.

(e)(1) The Secretary may prescribe a way in which a check issued to an individual (except a trust or estate) as a refund for taxes imposed under subtitle A of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) may become a series E savings bond. However, a check may become a bond only if the claim for a refund is filed by the last day prescribed by law for filing the return (determined without any extensions) for the taxable year for which the refund is made. The Secretary may prescribe the time and way in which the check becomes a bond.

(2) A bond issued under this subsection is deemed to be a series E bond issued under this section, except that the bond shall bear an issue date of the first day of the first month beginning after the close of the taxable year for which the bond is issued. The Secretary also may provide that a bond issued to joint payees may be redeemed by either payee alone.

#### **§ 3106. Retirement and savings bonds**

(a) With the approval of the President, the Secretary of the Treasury may issue retirement and savings bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds from the bonds shall be used for expenditures authorized by law. Retirement and savings bonds may be issued only on a discount basis. The maturity period of the bonds shall be at least 10 years from the date of issue but not more than 30 years from the date of issue. The difference between the price paid and the amount received on redeeming a bond is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b) The issue price of retirement and savings bonds and the conditions under which they may be redeemed may give an investment yield of not more than 5 percent a year compounded semiannually. With the approval of the President, the Secretary may allow owners of retirement and savings bonds to keep the bonds after maturity and continue to earn interest on them at rates that are consistent with the rate of investment yield provided by retirement and savings bonds.

(c) Section 3105(c)(1)–(5) of this title applies to this section. Sections 3105(c)(6) and (d) and 3126 of this title apply to this section to the extent consistent with this section. The Secretary may prescribe the maximum amount of retirement and savings bonds issued under this section in a year that may be held by one person. However, the maximum amount shall be at least \$3,000.

#### **§ 3107. Increasing interest rates and investment yields on retirement bonds**

With the approval of the President, the Secretary of the Treasury may increase by regulation the interest rate or investment yield on an offering of bonds issued under this chapter that are described in sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)). The increased yield shall be for interest accrual periods specified in the regulations so that the interest rate

or investment yield on the bonds for those periods is consistent with the interest rate or investment yield on a new offering of those bonds.

#### **§ 3108. Prohibition against circulation privilege**

An obligation issued under sections 3102-3104(a)(1) and 3105-3107 of this title may not bear the circulation privilege.

#### **§ 3109. Tax and loss bonds**

(a) The Secretary of the Treasury may issue tax and loss bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds of the tax and loss bonds shall be used for expenditures authorized by law. Tax and loss bonds are nontransferrable except as provided by the Secretary, bear no interest, and shall be issued in amounts needed to allow persons to comply with section 832(e) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)). The Secretary may prescribe the amount of tax and loss bonds and the conditions under which the bonds will be issued as required by section 832(e).

(b) For a taxable year in which amounts are deducted from the mortgage guaranty account referred to in section 832(e)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(3)), an amount of tax and loss bonds bought under section 832(e)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(2)) shall be redeemed for the amount deducted from the account. The amount redeemed shall be applied as necessary to pay taxes due because of the inclusion under section 832(b)(1)(E) of the Internal Revenue Code of 1954 (26 U.S.C. 832(b)(1)(E)) of amounts in gross income. The Secretary also may prescribe additional ways to redeem the bonds.

#### **§ 3110. Sale of obligations of governments of foreign countries**

(a) With the approval of the President, the Secretary of the Treasury may sell obligations of the government of a foreign country when the obligations were acquired under—

- 31 USC 774. (1) the First Liberty Bond Act and matured before June 16, 1947;
- 31 USC 774. (2) the Second Liberty Bond Act and matured before October 16, 1938; or
- 31 USC 802 note. (3) section 7(a) of the Victory Liberty Loan Act.

(b) The Secretary may prescribe the conditions and frequency for receiving payment under obligations of a government of a foreign country acquired under the laws referred to in subsection (a) of this section. A sale of an obligation acquired under those Acts shall at least equal the purchase price and accrued interest. The proceeds of obligations sold under this section and payments received from governments on the principal of their obligations shall be used to redeem or buy (for not more than par value and accrued interest) bonds of the United States Government issued under this chapter. If those bonds cannot be redeemed or bought, the Secretary shall redeem or buy other outstanding interest-bearing obligations of the Government that are subject to redemption or which can be bought at not more than par value and accrued interest.

#### **§ 3111. New issue used to buy, redeem, or refund outstanding obligations**

An obligation may be issued under this chapter to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates

of indebtedness, Treasury bills, or savings certificates of the United States Government. Under regulations of the Secretary of the Treasury, money received from the sale of an obligation and other money in the general fund of the Treasury may be used in making the purchases, redemptions, or refunds.

#### **§ 3112. Sinking fund for retiring and cancelling bonds and notes**

(a) The Department of the Treasury has a sinking fund for retiring bonds and notes issued under this chapter. Amounts in the fund are appropriated for payment of bonds and notes at maturity or for their redemption or purchase before maturity by the Secretary of the Treasury. The fund is available until all the bonds and notes are retired.

(b) For each fiscal year, an amount is appropriated equal to—

(1) the interest that would have been payable during the fiscal year for which the appropriation is made on the bonds and notes bought, redeemed, or paid out of the fund during that or prior years;

(2) 2.5 percent of the total amount of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, and the Victory Liberty Loan Act and outstanding on July 1, 1920, less an amount equal to the par amount of obligations of governments of foreign countries that the United States Government held on July 1, 1920; and

31 USC 774.

(3) 2.5 percent of the total amount expended after June 29, 1933, from appropriations made or authorized in sections 301 and 302 of the Emergency Relief and Construction Act of 1932.

47 Stat. 716, 720.

(c) The Secretary may prescribe the price and conditions for paying, redeeming, and buying bonds and notes under this section. The average cost of bonds and notes bought under this section may not be more than par value and accrued interest. Bonds and notes bought, redeemed, or paid out of the sinking fund must be canceled and retired and may not be reissued.

#### **§ 3113. Accepting gifts**

(a) To provide the people of the United States with an opportunity to make gifts to the United States Government to be used to reduce the public debt—

(1) the Secretary of the Treasury may accept for the Government a gift of—

(A) money made only on the condition that it be used to reduce the public debt;

(B) an obligation of the Government included in the public debt made only on the condition that the obligation be canceled and retired and not reissued; and

(C) other intangible personal property made only on the condition that the property is sold and the proceeds from the sale used to reduce the public debt; and

(2) the Administrator of General Services may accept for the Government a gift of tangible property made only on the condition that it be sold and the proceeds from the sale be used to reduce the public debt.

(b) The Secretary and the Administrator each may reject a gift under this section when the rejection is in the interest of the Government.

(c) The Secretary and the Administrator shall convert a gift either of them accepts under subsection (a)(1)(C) or (2) of this section to money on the best terms available. If a gift accepted under subsection (a) of this section is subject to a gift or inheritance tax, the Secretary or the Administrator may pay the tax out of the proceeds of the gift or the proceeds of the redemption or sale of the gift.

(d) The Treasury has an account into which money received as gifts and proceeds from the sale or redemption of gifts under this section shall be deposited. The Secretary shall use the money in the account to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt. An obligation of the Government that is paid, redeemed, or bought with money from the account shall be canceled and retired and may not be reissued. Money deposited in the account is appropriated and may be expended to carry out this section.

(e)(1) The Secretary shall redeem a direct obligation of the Government bearing interest or sold on a discount basis on receiving it when the obligation—

(A) is given to the Government;

(B) becomes the property of the Government under the conditions of a trust; or

(C) is payable on the death of the owner to the Government (or to an officer of the Government in the officer's official capacity).

(2) If the gift or transfer to the Government is subject to a gift or inheritance tax, the Secretary shall pay the tax out of the proceeds of redemption.

## SUBCHAPTER II—ADMINISTRATIVE

### § 3121. Procedure

(a) In issuing obligations under sections 3102-3104 of this title, the Secretary of the Treasury may prescribe—

(1) whether an obligation is to be issued on an interest-bearing basis, a discount basis, or an interest-bearing and discount basis;

(2) regulations on the conditions under which the obligation will be offered for sale, including whether it will be offered for sale on a competitive or other basis;

(3) the offering price and interest rate;

(4) the method of computing the interest rate;

(5) the dates for paying principal and interest;

(6) the form and denominations of the obligations; and

(7) other conditions.

(b)(1) Under conditions prescribed by the Secretary, an obligation issued under this chapter and redeemable on demand of the owner or holder may be used to pay the United States Government for taxes imposed by it.

(2) An obligation of the Government issued after March 3, 1971, under law may not be redeemed before its maturity to pay a tax imposed by the Government in an amount more than the fair market value of the obligation at the time of its redemption. This paragraph does not apply to a Treasury bill issued under section 3104 of this title.

(c) Under conditions prescribed by the Secretary, an obligation authorized by this chapter may be issued in exchange for an obliga-

tion of an agency whose principal and interest are unconditionally guaranteed by the Government at or before maturity.

(d) Under conditions prescribed by the Secretary, the Secretary may issue registered bonds in exchange for and instead of coupon bonds that have been or may be issued. The registered bonds shall be similar in all respects to the registered bonds issued under a law authorizing the issue of coupon bonds offered for exchange.

(e) A decision of the Secretary about an issue of obligations under sections 3102-3104 of this title is final.

(f) The Secretary may accept voluntary services in carrying out the sale of public debt obligations.

#### **§ 3122. Banks and trust companies as depositaries**

(a) The Secretary of the Treasury may designate incorporated banks and trust companies as depositaries for any part of proceeds of an obligation issued under this chapter. The Secretary may prescribe the conditions under which deposits may be made under this section, including the interest rate on amounts deposited and security requirements.

(b) The Secretary may designate a bank or trust company that is a depositary under subsection (a) of this section as a fiscal agent of the United States Government in selling and delivering bonds and certificates of indebtedness issued by the Government.

#### **§ 3123. Payment of obligations and interest on the public debt**

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)-(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

#### **§ 3124. Exemption from taxation**

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax, except—

(1) a nondiscriminatory franchise tax or another nonproperty tax instead of a franchise tax, imposed on a corporation; and



(2) an estate or inheritance tax.

Limitation.

(b) The tax status of interest on obligations and dividends, earnings, or other income from evidences of ownership issued by the Government or an agency and the tax treatment of gain and loss from the disposition of those obligations and evidences of ownership is decided under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.). An obligation that the Federal Housing Administration had agreed, under a contract made before March 1, 1941, to issue at a future date, has the tax exemption privileges provided by the authorizing law at the time of the contract. This subsection does not apply to obligations and evidences of ownership issued by the District of Columbia, a territory or possession of the United States, or a department, agency, instrumentality, or political subdivision of the District, territory, or possession.

**§ 3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations**

“Obligation.”

(a) In this section, “obligation” means a direct obligation of the United States Government issued under law for valuable consideration, including bonds, notes, certificates of indebtedness, Treasury bills, and interim certificates issued for an obligation.

(b) The Secretary of the Treasury may provide relief for the loss, theft, destruction, mutilation, or defacement of an obligation identified by number and description.

(c)(1) An indemnity bond is required as a condition of relief if the obligation is payable to bearer or assigned so as to become payable to bearer and is not proven clearly to have been destroyed. The Secretary may prescribe for the indemnity bond the form, amount, and surety or security requirements.

(2) Relief for interest coupons claimed to have been attached to an obligation may be provided only if the Secretary is satisfied that the coupons have not been paid and are destroyed or will not become the basis of a valid claim against the Government.

**§ 3126. Losses and relief from liability related to redeeming savings bonds and notes**

(a) Under regulations prescribed by the Secretary of the Treasury, a loss resulting from a payment related to redeeming a savings bond or savings note shall be replaced out of the fund established by section 2 of the Government Losses in Shipment Act (40 U.S.C. 722). A Federal reserve bank, a paying agent allowed to make payments in redeeming a bond or note, or an officer or employee of the Department of the Treasury is relieved from liability to the United States Government for the loss when the Secretary decides that the loss did not result from the fault or negligence of the bank, paying agent, officer, or employee. The Secretary shall relieve the bank, agent, officer, or employee from liability when the Secretary decides that written notice of liability or potential liability has not been given to the bank, agent, officer, or employee by the Government within 10 years from the date of the erroneous payment. However, the Secretary may not relieve a paying agent of an assumed unconditional liability to the Government.

(b) Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary) applies to a decision of the Secretary made under this section. A recovery or repayment of a loss for which replacement is made out of the fund

shall be credited to the fund and is available for the purposes for which the fund was established.

#### **§ 3127. Credit to officers, employees, and agents for stolen Treasury notes**

When an officer, employee, or agent of the United States Government authorized to receive, redeem, or cancel Treasury notes receives or pays a note that was stolen and put in circulation after it had been received or redeemed by an officer, employee, or agent authorized to receive or redeem the note, the Secretary of the Treasury may allow the officer, employee, or agent receiving or paying the stolen note a credit for the amount of the note. The Secretary may allow the credit only if the Secretary is satisfied that the note was received or paid in good faith and in exercising ordinary prudence.

#### **§ 3128. Proof of death to support payment**

A finding of death made by an officer or employee of the United States Government authorized by law to make the finding is sufficient proof of death to allow credit in the accounts of a Federal reserve bank or accountable official of the Department of the Treasury in a case involving the transfer, exchange, reissue, redemption, or payment of obligations of the Government, including obligations guaranteed by the Government for which the Secretary of the Treasury acts as transfer agent.

#### **§ 3129. Appropriation to pay expenses**

(a) Amounts to pay necessary expenses (including rent) for an issue of obligations authorized under this chapter are appropriated to the Secretary of the Treasury. However, the amount appropriated under this section may not be more than—

- (1) .2 percent of the amount of bonds and notes authorized under this chapter;
- (2) .1 percent of the amount of certificates of indebtedness authorized under section 3104 of this title; and
- (3) .1 percent of the amount of certificates of indebtedness authorized under the First Liberty Bond Act.

(b) An appropriation under this section is available for obligation only through the end of the fiscal year after the fiscal year in which the issue was made. During a period for which an appropriation for a specified amount is made for expenses for which this section makes an appropriation for an unspecified amount, only the appropriation for the specified amount is available for obligation.

31 USC 774.

### **CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY**

#### **SUBCHAPTER I—DEPOSITS AND DEPOSITARIES**

- Sec.
- 3301. General duties of the Secretary of the Treasury.
  - 3302. Custodians of money.
  - 3303. Designation of depositaries.
  - 3304. Transfers of public money from depositaries.
  - 3305. Audits of depositaries.

#### **SUBCHAPTER II—PAYMENTS**

- 3321. Disbursing authority in the executive branch.
- 3322. Disbursing officials.
- 3323. Warrants.
- 3324. Advances.

- Sec.  
 3325. Vouchers.  
 3326. Waiver of requirements for warrants and advances.  
 3327. General authority to issue checks and other drafts.  
 3328. Paying checks and drafts.  
 3329. Withholding checks to be sent to foreign countries.  
 3330. Payment of Veterans' Administration checks for the benefit of individuals in foreign countries.  
 3331. Substitute checks.  
 3332. Checks payable to financial organizations designated by Government officers and employees.  
 3333. Relief for payments made without negligence.

#### SUBCHAPTER III—MISCELLANEOUS

3341. Sale of Government warrants, checks, drafts, and obligations.  
 3342. Check cashing and exchange transactions.  
 3343. Check forgery insurance fund.

#### SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

##### § 3301. General duties of the Secretary of the Treasury

(a) The Secretary of the Treasury shall—

- (1) receive and keep public money;
- (2) take receipts for money paid out by the Secretary;
- (3) give receipts for money deposited in the Treasury;
- (4) endorse warrants for receipts for money deposited in the Treasury;

(5) submit the accounts of the Secretary to the Comptroller General every 3 months, or more often if required by the Comptroller General; and

(6) submit to inspection at any time by the Comptroller General of money in the possession of the Secretary.

(b) Except as provided in section 3326 of this title, an acknowledgment for money deposited in the Treasury is not valid if the Secretary does not endorse a warrant as required by subsection (a)(4) of this section.

##### § 3302. Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without—

- (1) lending the money;
- (2) using the money;
- (3) depositing the money in a bank; and
- (4) exchanging the money for other amounts.

(b) An official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay, but not later than the 30th day after the custodian receives the money, in the Treasury or with a depositary designated by the Secretary of the Treasury under law. The Secretary or a depositary receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

Penalty.

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be

required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government.

### **§ 3303. Designation of depositaries**

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

### **§ 3304. Transfers of public money from depositaries**

The Secretary of the Treasury may transfer public money in the possession of a depositary—

- (1) to the Treasury; and
- (2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

### **§ 3305. Audits of depositaries**

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary's—

- (1) books;
- (2) accounts;
- (3) returns; and
- (4) public money on hand and the way the money is kept.

## **SUBCHAPTER II—PAYMENTS**

### **§ 3321. Disbursing authority in the executive branch**

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

- (1) United States Marshal's Office.
- (2) military departments of the Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).
- (d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

#### § 3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. A disbursing official shall—

- (1) deposit public money as required by section 3302 of this title; and
- (2) draw public money from the Treasury or a depository only—

(A) as necessary to make payments; and

(B) payable to persons to whom payment is to be made.

(b) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

- (1) use of improper transportation rates or classifications; or
- (2) failure to deduct the proper amount under—
  - (A) a land grant law; or
  - (B) an equalization or other agreement.

#### § 3323. Warrants

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out money only against a warrant. A warrant shall be—

- (1) authorized by law;
- (2) signed by the Secretary; and
- (3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

#### § 3324. Advances

(a) Except as provided in this section, a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

- (1) a specific appropriation or other law; or
- (2) the President to be made to—

(A) a disbursing official if the President decides the advance is necessary to carry out—

(i) the duties of the official promptly and faithfully; and

(ii) an obligation of the Government; or

(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

(A) payment of tolls of commercial carriers;

(B) leasing facilities for sending messages; and

(C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

#### § 3325. Vouchers

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

(A) the head of the executive agency concerned; or

(B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—

(A) in proper form;

(B) certified and approved; and

(C) computed correctly on the facts certified; and

(3) except for the correctness of computations on a voucher, be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

#### § 3326. Waiver of requirements for warrants and advances

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

#### **§ 3327. General authority to issue checks and other drafts**

The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depository to issue a check or other draft on public money held by the depository to pay an obligation of the Government. As directed by the Secretary, each depository shall report to the Secretary on public money paid and received by the depository.

#### **§ 3328. Paying checks and drafts**

(a)(1) Except as provided in sections 3329 and 3330 of this title, a check drawn on the Treasury may be paid at any time. However, if the Secretary of the Treasury is on notice of a question of law or fact about the check when the check is presented, the Secretary shall defer payment until the Comptroller General settles the question.

(2) When the Secretary decides it is appropriate, the Secretary may transfer—

(A) the amount of an unpaid check drawn on the Treasury from the account on which it was drawn to a consolidated account of the Treasury available for paying checks; and

(B) an amount available, but not required, for paying checks drawn on the Treasury to the appropriate receipt account.

(b)(1) If a check issued by a disbursing official and drawn on a designated depository is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depository; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury on settlement by the Comptroller General.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depository.

(d) With the approval of the Comptroller General, the Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)–(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

**§ 3329. Withholding checks to be sent to foreign countries**

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

- (1) will receive the check or warrant; and
- (2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

- (A) will receive the check or warrant; and
- (B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

- (A) withheld check or warrant to the drawee; and
- (B) report to the Secretary on—
  - (i) the name and address of the payee;
  - (ii) the date, number, and amount of the check or warrant; and
  - (iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account "Secretary of the Treasury, Proceeds of Withheld Foreign Checks". The check or warrant shall be marked "Paid into Withheld Foreign Check Account". After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

- (1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Administrator of Veterans' Affairs if the claim represents a payment under laws carried out by the Administrator); and
- (2) the Secretary is reasonably ensured that the person—
  - (A) will receive the check or warrant; and
  - (B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

- (1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;
- (2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of



this section when a license is required by law to authorize delivery and payment; and

(3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

**§ 3330. Payment of Veterans' Administration checks for the benefit of individuals in foreign countries**

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

(A) drawn on public money;

(B) for benefits under laws carried out by the Administrator of Veterans' Affairs; and

(C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Administrator shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

Exemption.

(3) The Administrator may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws carried out by the Administrator) transferred under section 3329(b)(4) of this title equals \$1,000, the amounts of additional checks (except checks under contracts of insurance) payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws carried out by the Administrator dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Administrator by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Administrator requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

**§ 3331. Substitute checks**

(a) In this section, "original check"—

"Original  
check."

(1) means an order for the payment of money—

- (A) payable on demand;
- (B) that does not bear interest;
- (C) drawn by an authorized disbursing official or agent of the United States Government; and
- (D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depository in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

(1) using the current date; and

(2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

(1) may be paid only if the original check has not been paid;

(2) shall include information necessary to identify the original check;

(3) that is drawn on the Treasury—

(A) is deemed to be an original check; and

(B) is paid under the same conditions as the original check; and

(4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

**§ 3332. Checks payable to financial organizations designated by Government officers and employees**

(a) In this section, "financial organization" means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.

"Financial  
organization."

(b) An officer or employee of an agency may designate in writing not more than 3 financial organizations to which a payment of pay of the officer or employee shall be sent and the amount to be sent to each organization. The head of the agency shall authorize a disburs-

ing official to issue a check payable to each of the organizations in the amount designated for—

- (1) credit to the checking account of the officer or employee;
- (2) deposit of savings for the officer or employee; or
- (3) buying shares for the officer or employee.

(c) An agency is not reimbursed for the cost of issuing one check requested by an officer or employee under subsection (b) of this section. However, a financial organization (except a financial organization designated by an officer or employee of either House of Congress) shall reimburse the agency for the cost of each additional check issued. The check for which the agency is not reimbursed is the check in the largest amount.

(d) If more than one officer or employee making a designation under this section designates the same financial organization, the head of the agency may authorize a disbursing official to issue a check payable to the organization for the total amount designated by the officers and employees, accompanied by a schedule stating the amount to be credited to the account of each officer and employee.

(e) Payment by the Government by more than one check, issued under this section and properly endorsed, is complete payment of the amount due to the officer or employee requesting payment.

(f) On the written request of a person to whom payment is to be made, this section may be applied to any class of recurring payments.

Regulations.

(g) The Secretary of the Senate shall prescribe regulations for the Senate in carrying out this section. With the approval of the Committee on House Administration of the House of Representatives, the Clerk of the House shall prescribe regulations for the House in carrying out this section. The Secretary of the Treasury shall prescribe regulations for all other agencies in carrying out this section.

#### **§ 3333. Relief for payments made without negligence**

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of a—

(A) check, draft, or warrant drawn on the Treasury or the depositary; and

(B) debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depositary for the payment.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

### **SUBCHAPTER III—MISCELLANEOUS**

#### **§ 3341. Sale of Government warrants, checks, drafts, and obligations**

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depositary for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately. Penalty.

#### § 3342. Check cashing and exchange transactions

(a) A disbursing official of the United States Government may—

(1) cash and negotiate negotiable instruments payable in United States currency or currency of a foreign country;

(2) exchange United States currency, coins, and negotiable instruments and currency, coins, and negotiable instruments of foreign countries; and

(3) cash checks drawn on the Treasury to accommodate United States citizens in a foreign country, but only if—

(A) satisfactory banking facilities are not available in the foreign country; and

(B) a check is presented by the payee who is a United States citizen.

(b) A disbursing official may act under subsection (a) (1) and (2) of this section only for—

(1) an official purpose;

(2) personnel of the Government;

(3) a veteran hospitalized or living in an institution operated by an agency;

(4) a contractor, or personnel of a contractor, carrying out a Government project; and

(5) personnel of an authorized agency not part of the Government that operates with an agency of the Government.

(c)(1) An amount held by the disbursing official that is available for expenditure may be used to carry out subsection (a) of this section with the approval of the head of the agency having jurisdiction over the amount.

(2) The head of an agency having jurisdiction over a disbursing official may offset, within the same fiscal year, a deficiency resulting from a transaction under subsection (a) of this section with a gain from a transaction under subsection (a). A gain in the account of a disbursing official not used to offset deficiencies under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

(3) Amounts necessary to adjust for deficiencies in the account of a disbursing official because of transactions under subsection (a) of this section are authorized to be appropriated.

(d) The Secretary of the Treasury and, with the approval of the Secretary, the head of an agency having jurisdiction over a disbursing official, may issue regulations to carry out this section. However, under conditions the Secretary decides are necessary, the Secretary may delegate to the head of an agency the authority to issue regulations applying to a disbursing official that is an officer or employee of the agency.

#### § 3343. Check forgery insurance fund

(a) The Department of the Treasury has a special deposit revolving fund, the "Check Forgery Insurance Fund". Amounts may be appropriated to the Fund. The Fund consists of amounts—

(1) appropriated to the Fund; and

(2) received under subsection (d) of this section.

(b) The Secretary of the Treasury shall pay from the Fund to a payee or special endorsee of a check drawn on the Treasury or a depository designated by the Secretary the amount of the check without interest if—

(1) the check was lost or stolen without the fault of the payee or a holder that is a special endorsee and whose endorsement is necessary for further negotiation;

(2) the check was negotiated later and paid by the Secretary or a depository on a forged endorsement of the payee's or special endorsee's name;

(3) the payee or special endorsee has not participated in any part of the proceeds of the negotiation or payment; and

(4) recovery from the forger, a transferee, or a party on the check after the forgery has been or may be delayed or unsuccessful.

(c) Notwithstanding section 1306 of this title, a check drawn on a designated depository may be paid in the currency of a foreign country when the appropriate accountable official authorizes payment in that currency.

(d) The Secretary shall deposit immediately to the credit of the Fund an amount recovered from a forger or a transferee or party on the check. However, currency of a foreign country recovered because of a forged check drawn on a designated depository shall be credited to the Fund or to the foreign currency fund that was charged when payment was made under subsection (b) of this section to the payee or special endorsee.

(e) This section does not relieve—

(1) a forger from civil or criminal liability; or

(2) a transferee or party on a check after the forgery from liability—

(A) on the express or implied warranty of prior endorsements of the transferee or party; or

(B) to refund amounts to the Secretary.

## CHAPTER 35—ACCOUNTING AND COLLECTION

### SUBCHAPTER I—GENERAL

Sec.

3501. Definition.

### SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

3511. Prescribing accounting requirements and developing accounting systems.

3512. Executive agency accounting systems.

3513. Financial reporting and accounting system.

3514. Discontinuing certain accounts maintained by the Comptroller General.

### SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

3521. Audits by agencies.

3522. Making and submitting accounts.

3523. General audit authority of the Comptroller General.

3524. Auditing expenditures approved without vouchers.

3525. Auditing nonappropriated fund activities.

3526. Settlement of accounts.

3527. General authority to relieve accountable officials and agents from liability

3528. Responsibilities and relief from liability of certifying officials.

3529. Requests for decisions of the Comptroller General.

3530. Adjusting accounts.

3531. Property returns.

3532. Notification of account deficiencies.

### SUBCHAPTER IV—COLLECTION

3541. Distress warrants.

3542. Carrying out distress warrants.

3543. Postponing a distress warrant proceeding.

Sec.

3544. Rights and remedies of the United States Government reserved.

3545. Civil action to recover money.

## SUBCHAPTER I—GENERAL

### § 3501. Definition

In this chapter, “executive agency” does not include (except in section 3513 of this title) a corporation, agency, or instrumentality subject to chapter 91 of this title.

“Executive  
agency.”

*Post*, p. 1041.

## SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

### § 3511. Prescribing accounting requirements and developing accounting systems

(a) The Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe. Before prescribing the principles, standards, and requirements, the Comptroller General shall consult with the Secretary of the Treasury and the President on their accounting, financial reporting, and budgetary needs, and shall consider the needs of the heads of the other executive agencies.

(b) Requirements prescribed under subsection (a) of this section shall—

(1) provide for suitable integration between the accounting process of each executive agency and the accounting of the Department of the Treasury;

(2) allow the head of each agency to carry out section 3512 of this title; and

(3) provide a method of—

(A) integrated accounting for the United States Government;

(B) complete disclosure of the results of the financial operations of each agency and the Government; and

(C) financial information and control the President and Congress require to carry out their responsibilities.

(c) Consistent with subsections (a) and (b) of this section—

(1) the authority of the Comptroller General continues under section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b)); and

(2) the Comptroller General may prescribe the forms, systems, and procedures that the judicial branch of the Government (except the Supreme Court) shall observe.

(d) The Comptroller General, the Secretary, and the President shall conduct a continuous program for improving accounting and financial reporting in the Government.

### § 3512. Executive agency accounting systems

(a) The head of each executive agency shall establish and maintain systems of accounting and internal controls that provide—

Establishment.

(1) complete disclosure of the financial results of the activities of the agency;

(2) adequate financial information the agency needs for management purposes;

(3) effective control over, and accountability for, assets for which the agency is responsible, including internal audit;

(4) reliable accounting results that will be the basis for—

(A) preparing and supporting the budget requests of the agency;

(B) controlling the carrying out of the agency budget; and

(C) providing financial information the President requires under section 1104(e) of this title; and

(5) suitable integration of the accounting of the agency with the central accounting and reporting responsibilities of the Secretary of the Treasury under section 3513 of this title.

(b) To assist in preparing a cost-based budget under section 1108(b) of this title and consistent with principles and standards the Comptroller General prescribes, the head of each executive agency shall maintain the accounts of the agency on an accrual basis to show the resources, liabilities, and costs of operations of the agency. An accounting system under this subsection shall include monetary property accounting records.

(c) The Comptroller General shall—

(1) cooperate with the head of each executive agency in developing an accounting system for the agency; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(d) The Comptroller General shall review the accounting systems of each executive agency. The results of a review shall be available to the head of the executive agency, the Secretary, and the President. The Comptroller General shall report to Congress on a review when the Comptroller General considers it proper.

#### **§ 3513. Financial reporting and accounting system**

(a) The Secretary of the Treasury shall prepare reports that will inform the President, Congress, and the public on the financial operations of the United States Government. The reports shall include financial information the President requires. The head of each executive agency shall give the Secretary reports and information on the financial conditions and operations of the agency the Secretary requires to prepare the reports.

(b) The Secretary may—

(1) establish facilities necessary to prepare the reports; and

(2) reorganize the accounting functions and procedures and financial reports of the Department of the Treasury to develop an effective and coordinated system of accounting and financial reporting in the Department that will integrate the accounting results for the Department and be the operating center for consolidating accounting results of other executive agencies with accounting results of the Department.

(c) The Comptroller General shall—

(1) cooperate with the Secretary in developing and establishing the reporting and accounting system under this section; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

#### **§ 3514. Discontinuing certain accounts maintained by the Comptroller General**

The Comptroller General may discontinue an agency appropriation, expenditure, limitation, receipt, or personal ledger account

maintained by the Comptroller General when the Comptroller General believes that the accounting system and internal controls of the agency will allow the Comptroller General to carry out the functions related to the account.

### SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

#### § 3521. Audits by agencies

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

Regulations.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General—

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not—

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

#### § 3522. Making and submitting accounts

(a)(1) Unless the Comptroller General decides the public interest requires that an account be made more frequently, each disbursing official shall make a quarterly account. An official or agent of the United States Government receiving public money not authorized to be kept as pay of the official or agent shall make a monthly account of the money.

(2) An official or agent of the Government receiving public money shall make an account of public money received by the official or agent according to the appropriation from which the money was advanced.

(b)(1) A monthly account shall be submitted to the appropriate official in the District of Columbia by the 10th day after the end of the month covered by the account. The official shall submit the account to the Comptroller General by the 20th day after receiving the account.

(2) An account (except a monthly account) shall be submitted to the appropriate official in the District of Columbia by the 20th day



after the end of the period covered by the account. The official shall submit the account to the Comptroller General by the 60th day after receiving the account.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an account of the armed forces shall be submitted to the Comptroller General by the 60th day after the account is received. However, during a war or national emergency and for 18 months after the war or emergency ends, an account shall be submitted to the Comptroller General by the 90th day after the account is received.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an account of a disbursing official of the Department of Justice shall be submitted to the Comptroller General by the 80th day after the account is received.

(c) An official shall give evidence of compliance with subsection (b) of this section if an account is not received within a reasonable time after the time required by subsection (b).

(d) The head of an agency may require other returns or reports about the agency that the public interest requires.

(e)(1) The Comptroller General shall disapprove a requisition for an advance of money if an account from which the advance is to be made is not submitted to the Comptroller General within the time required by subsection (b) of this section. The Comptroller General may disapprove the request for another reason related to the condition of an account of the official for whom the advance is requested. However, the Secretary of the Treasury may overrule the decision of the Comptroller General on the sufficiency of the other reasons.

(2) The Secretary may extend the time requirements of subsection (b) (1) and (2) of this section for submitting an account to the proper official in the District of Columbia or waive a condition of delinquency only when there is, or is likely to be, a manifest physical difficulty in complying with those requirements. If an account is not submitted to the Comptroller General on time under subsection (b), an order of the President or, if the President is ill or not in the District of Columbia, the Secretary is required to authorize an advance.

### § 3523. General audit authority of the Comptroller General

(a) Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency. In deciding on auditing procedures and the extent to which records are to be inspected, the Comptroller General shall consider generally accepted auditing principles, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of each agency.

(b) The Comptroller General shall audit the Architect of the Capitol at times the Comptroller General considers appropriate. Section 716 of this title applies to the Architect in conducting the audit. The Comptroller General shall report the results of the audit to Congress. Each report shall be printed as a Senate document.

(c)(1) When the Comptroller General decides an audit shall be conducted at a place at which the records of an executive agency or the Architect of the Capitol are usually kept, the Comptroller General may require the head of the agency or the Architect to keep any part of an account of an accountable official or of a record required to be submitted to the Comptroller General. The Comptroller General may require records be kept under conditions and for a period of not more than 10 years specified by the Comptroller

General. However, the Comptroller General and the head of the agency or the Architect may agree on a longer period.

(2) The Comptroller General and the head of an agency in the legislative or judicial branch of the United States Government (except the Architect) may agree to apply this subsection to the agency.

#### § 3524. Auditing expenditures approved without vouchers

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the committees of Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on Government Operations, and to the Comptroller General.

Report to congressional committees.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counter-intelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

Exemption.

(d) This section does not—

(1) apply to expenditures under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

#### § 3525. Auditing nonappropriated fund activities

(a) The Comptroller General may audit—

(1) the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States Government personnel and their dependents;

(2) accounting systems and internal controls of the fund and related activities; and

- (3) internal or independent audits or reviews of the fund and related activities.
- (b) The head of each executive agency promptly shall provide the Comptroller General with—
  - (1) a copy of the annual report of a nonappropriated fund and related activities subject to this section when the Comptroller General—
    - (A) requires a report for a designated class of each fund and related activities having gross sales receipts of more than \$100,000 a year; or
    - (B) specifically requests a report for another fund and related activities; and
  - (2) a statement on the yearly financial operations, financial condition, and cash flow and other yearly information about the fund and related activities that the head of the agency and the Comptroller General agree on if the information is not included in the annual report.
- (c) Records and property of a fund and related activities subject to this section shall be made available to the Comptroller General to the extent the Comptroller General considers necessary.

#### § 3526. Settlement of accounts

- (a) The Comptroller General shall settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government.
- (b) A decision of the Comptroller General under section 3529 of this title is conclusive on the Comptroller General when settling the account containing the payment.
- (c)(1) The Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account. A copy of the certificate of settlement shall be provided the official.
- (2) The settlement of an account is conclusive on the Comptroller General after 3 years after the account is received by the Comptroller General. However, an amount may be charged against the account after the 3-year period when the Government has or may have lost money because the official acted fraudulently or criminally.
- (3) A 3-year period under this subsection is suspended during a war.
- (4) This subsection does not prohibit—
  - (A) recovery of public money illegally or erroneously paid;
  - (B) recovery from an official of a balance due the Government under a settlement within the 3-year period; or
  - (C) an official from clearing an account of questioned items as prescribed by law.
- (d) On settling an account of the Government, the balance certified by the Comptroller General is conclusive on the executive branch of the Government. On the initiative of the Comptroller General or on request of an individual whose accounts are settled or the head of the agency to which the account relates, the Comptroller General may change the account within a year after settlement. The decision of the Comptroller General to change the account is conclusive on the executive branch.
- (e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may—

- (1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or
- (2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically. The certificate is a sufficient voucher for the amount stated in the certificate.

(f) The Comptroller General shall keep all settled accounts, vouchers, certificates, and related papers until they are disposed of as prescribed by law.

(g) This subchapter does not prohibit the Comptroller General from suspending an item in an account to get additional evidence or explanations needed to settle an account.

**§ 3527. General authority to relieve accountable officials and agents from liability**

(a) Except as provided in subsection (b) of this section, the Comptroller General may relieve a present or former accountable official or agent of an agency responsible for the physical loss or deficiency of public money, vouchers, checks, securities, or records, or may authorize reimbursement from an appropriation or fund available for the activity in which the loss or deficiency occurred for the amount of the loss or deficiency paid by the official or agent as restitution, when—

(1) the head of the agency decides that—

(A) the official or agent was carrying out official duties when the loss or deficiency occurred, or the loss or deficiency occurred because of an act or failure to act by a subordinate of the official or agent; and

(B) the loss or deficiency was not the result of fault or negligence by the official or agent;

(2) the loss or deficiency was not the result of an illegal or incorrect payment; and

(3) the Comptroller General agrees with the decision of the head of the agency.

(b)(1) The Comptroller General shall relieve a disbursing official of the armed forces responsible for the physical loss or deficiency of public money, vouchers, or records, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) the Secretary of Defense or the appropriate Secretary of the military department of the Department of Defense decides that the official was carrying out official duties when the loss or deficiency occurred;

(B) the loss or deficiency was not the result of an illegal or incorrect payment; and

(C) the loss or deficiency was not the result of fault or negligence by the official.

(2) The finding of the Secretary involved is conclusive on the Comptroller General.

(c) On the initiative of the Comptroller General or written recommendation of the head of an agency, the Comptroller General may relieve a present or former disbursing official of the agency responsible for a deficiency in an account because of an illegal, improper, or incorrect payment, and credit the account for the deficiency, when the Comptroller General decides that the payment was not the

result of bad faith or lack of reasonable care by the official. However, the Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(d)(1) When the Comptroller General decides it is necessary to adjust the account of an official or agent granted relief under subsection (a) or (c) of this section, the amount of the relief shall be charged—

(A) to an appropriation specifically provided to be charged; or  
(B) if no specific appropriation, to the appropriation or fund available for the expense of the accountable function when the adjustment is carried out.

(2) Subsection (c) of this section does not—

(A) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(B) relieve an accountable official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Relief provided under this section is in addition to relief provided under another law.

#### **§ 3528. Responsibilities and relief from liability of certifying officials**

(a) A certifying official certifying a voucher is responsible for—  
(1) information stated in the certificate, voucher, and supporting records;

(2) the computation of a certified voucher under this section and section 3325 of this title;

(3) the legality of a proposed payment under the appropriation or fund involved; and

(4) repaying a payment—

(A) illegal, improper, or incorrect because of an inaccurate or misleading certificate;

(B) prohibited by law; or

(C) that does not represent a legal obligation under the appropriation or fund involved.

(b) The Comptroller General may relieve a certifying official from liability when the Comptroller General decides that—

(1) the certification was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information; or

(2)(A) the obligation was incurred in good faith;

(B) no law specifically prohibited the payment; and

(C) the United States Government received value for payment.

(c) The Comptroller General shall relieve a certifying official from liability for an overpayment—

(1) to a common carrier under section 3726 of this title when the Comptroller General decides the overpayment occurred only because the administrative audit before payment did not verify transportation rates, freight classifications, or land-grant deductions; or

(2) provided under a Government bill of lading or transportation request when the overpayment was the result of using

improper transportation rates or classifications or the failure to deduct the proper amount under a land-grant law or agreement.

(d) This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.

#### **§ 3529. Requests for decisions of the Comptroller General**

(a) A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General on a question involving—

(1) a payment the disbursing official or head of the agency will make; or

(2) a voucher presented to a certifying official for certification.

(b) The Comptroller General shall issue a decision requested under this section.

#### **§ 3530. Adjusting accounts**

(a) An appropriation or fund currently available for the expense of an accountable function shall be charged with an amount necessary to adjust an account of an accountable official or agent when—

(1) necessary to adjust the account for a loss to the United States Government resulting from the fault or negligence of the official or agent; and

(2) the head of the agency decides the loss is uncollectable.

(b) An adjustment does not affect the personal financial liability of an official or agent for the loss.

(c) The Comptroller General shall prescribe regulations to carry out subsection (a) of this section. Regulations.

(d) Under procedures prescribed by the Comptroller General, the head of an agency may charge the net amount of unpaid and overpaid balances in individual pay accounts against the appropriation for the fiscal year in which the balances occurred and from which the accounts were payable. The net amount shall be credited to and paid from the corresponding appropriation for the next fiscal year.

#### **§ 3531. Property returns**

(a) The head of an executive department—

(1) shall certify to the Comptroller General a charge against an official or agent entrusted with public property for the department resulting from a loss to the United States Government from the property because of fault of the official or agent; and

(2) may not forward the property to the Comptroller General.

(b)(1) A certificate under subsection (a) of this section shall state—

(A) the condition of the property;

(B) that the official or agent has had a reasonable opportunity to be heard but has not been relieved of liability; and

(C) that the certificate includes all charges not certified previously.

(2) The effect of information in the certificate is the same as if the Comptroller General had discovered the information when auditing the account. The Comptroller General shall charge the appropriate account for the amount of the loss.

(c) Except as provided in subsection (a) of this section, this section does not affect the way a property return is made or liability for property is decided.

**§ 3532. Notification of account deficiencies**

An accounting official discovering a deficiency in an account of an official of the United States Government having custody of public money shall notify the head of the agency having jurisdiction of the official of the kind and amount of the deficiency.

**SUBCHAPTER IV—COLLECTION****§ 3541. Distress warrants**

(a) When an official receiving public money before it is paid to the Treasury or a disbursing or certifying official of the United States Government does not submit an account or pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government.

(b) The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides. If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides, the warrant shall be directed to the marshal of the district in which the official resides and the marshal of the district in which the property is located.

**§ 3542. Carrying out distress warrants**

(a) A marshal carrying out a distress warrant issued under section 3541 of this title shall seize the personal property of the official and sell the property after giving 10 days notice of the sale. Notice shall be given by posting an advertisement of the property to be sold in at least 2 public places in the town and county in which the property was taken or the town and county in which the owner of the property resides. If the property does not satisfy the amount due under the warrant, the official may be sent to prison until discharged by law.

(b)(1) The amount due under a warrant is a lien on the real property of the official from the date the distress warrant is issued. The lien shall be recorded in the office of the clerk of the appropriate district court until discharged under law.

(2) If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell real property of the official after advertising the property for at least 3 weeks in at least 3 public places in the county or district where the property is located. A buyer of the real property has valid title against all persons claiming under the official.

(c) The official shall receive that part of the proceeds of a sale remaining after the distress warrant is satisfied and the reasonable costs and charges of the sale are paid.

**§ 3543. Postponing a distress warrant proceeding**

(a) A distress warrant proceeding may be postponed for a reasonable time if the Secretary of the Treasury believes the public interest will not be harmed by the postponement.

(b)(1) A person adversely affected by a distress warrant issued under section 3541 of this title may bring a civil action in a district court of the United States. The complaint shall state the kind and extent of the harm. The court may grant an injunction to stay any

part of a distress warrant proceeding required by the action after the person applying for the injunction gives a bond in an amount the court prescribes for carrying out a judgment.

(2) An injunction under this subsection does not affect a lien under section 3542(b)(1) of this title. The United States Government is not required to answer in a civil action brought under this subsection.

(3) If the court dissolves the injunction on a finding that the civil action for the injunction was brought only for delay, the court may increase the interest rate imposed on amounts found due against the complainant to not more than 10 percent a year. The judge may grant or dissolve an injunction under this subsection either in or out of court.

(c) A person adversely affected by a refusal to grant an injunction or by dissolving an injunction under subsection (b) of this section may petition a judge of a circuit court of appeals in which the district is located or the Supreme Court justice allotted to that circuit by giving the judge or justice a copy of the proceeding held before the district judge. The judge or justice may grant an injunction or allow an appeal if the judge or justice finds the case requires it.

#### **§ 3544. Rights and remedies of the United States Government reserved**

This subchapter does not affect a right or remedy the United States Government has by law to recover a tax, debt, or demand.

#### **§ 3545. Civil action to recover money**

The Attorney General shall bring a civil action to recover an amount due to the United States Government on settlement of the account of a person accountable for public money when the person neglects or refuses to pay the amount to the Treasury. Any commission of that person and interest of 6 percent a year from the time the money is received by the person until repaid to the Treasury shall be added to the amount due on the account. The commission is forfeited when judgment is obtained.

## **CHAPTER 37—CLAIMS**

### **SUBCHAPTER I—GENERAL**

Sec.

3701. Definitions.

3702. Authority of the Comptroller General to settle claims.

### **SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT**

3711. Collection and compromise.

3712. Time limitations for presenting certain claims of the Government.

3713. Priority of Government claims.

3714. Keeping money due States in default.

3715. Buying real property of a debtor.

### **SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT**

3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss.

3722. Claims of officers and employees at Government penal and correctional institutions.

3723. Small claims for privately owned property damage or loss.

3724. Claims for damages caused by the Federal Bureau of Investigation.

3725. Claims of non-nationals for personal injury or death in a foreign country.

3726. Payment for transportation.



- Sec.  
3727. Assignments of claims.  
3728. Setoff against judgment.  
3729. False claims.  
3730. Civil actions for false claims.  
3731. False claims procedure.

## SUBCHAPTER I—GENERAL

### § 3701. Definitions

In this chapter—

- (1) “executive or legislative agency” means a department, agency, or instrumentality in the executive or legislative branch of the United States Government.
- (2) “military department” means the Departments of the Army, Navy, and Air Force.
- (3) “uniformed services” means the Army, Navy, Air Force, Marine Corps, Coast Guard, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service.

### § 3702. Authority of the Comptroller General to settle claims

(a) Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the Comptroller General within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be presented to the Comptroller General within 5 years after peace is established or within the period provided in clause (1) of subsection, whichever is later.

(3) The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.

(c) A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued.

(d) The Comptroller General shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the Comptroller General believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the Comptroller General.

Report to  
Congress.

**SUBCHAPTER II—CLAIMS OF THE UNITED STATES  
GOVERNMENT****§ 3711. Collection and compromise**

(a) The head of an executive or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than \$20,000 (excluding interest) that has not been referred to another executive or legislative agency for further collection action; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b) The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.

(c)(1) The head of an executive or legislative agency may not act under subsection (a) (2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than \$250 a penalty under section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)).

(d) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(e) The head of an executive or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General and the Comptroller General may prescribe jointly.

**§ 3712. Time limitations for presenting certain claims of the Government**

(a) Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser, transferor, depository, or fiscal agent. The period for bringing a civil action or giving notice is

extended for 180 days if a claim is received under section 3702(c) of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depository, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

### **§ 3713. Priority of Government claims**

(a)(1) A claim of the United States Government shall be paid first when—

- (A) a person indebted to the Government is insolvent and—
  - (i) the debtor without enough property to pay all debts makes a voluntary assignment of property;
  - (ii) property of the debtor, if absent, is attached; or
  - (iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

### **§ 3714. Keeping money due States in default**

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

### **§ 3715. Buying real property of a debtor**

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES  
GOVERNMENT**§ 3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss**

(a) In this section—

Definitions.

(1) “agency” does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) “head of an agency” means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) “settle” means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b) The head of an agency may settle and pay not more than \$15,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(c)(1) The head of an agency may settle and pay not more than \$40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property in a foreign country that was incurred after December 30, 1978, incident to service, and—

(A)(i) the member, officer, or employee was evacuated from the country after December 30, 1978, on a recommendation or order of the Secretary of State or other competent authority that was made in responding to an incident of political unrest or hostile act by people in that country; and

(ii) the damage or loss resulted from the evacuation, incident, or hostile act; or

(B) the damage or loss resulted from a hostile act directed against the Government or its members, officers, or employees.

(2) On paying a claim under this subsection, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against the foreign country for the damage or loss for which the Government made the payment.

(3) Amounts may be obligated or expended for claims under this subsection only to the extent provided in advance in appropriation laws.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than \$1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

#### **§ 3722. Claims of officers and employees at Government penal and correctional institutions**

(a) The Attorney General may settle and pay not more than \$1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

**§ 3723. Small claims for privately owned property damage or loss**

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than \$1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

28 USC 2671 *et seq.*

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

**§ 3724. Claims for damages caused by the Federal Bureau of Investigation**

(a) The Attorney General may settle, for not more than \$500 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) The Attorney General shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

**§ 3725. Claims of non-nationals for personal injury or death in a foreign country**

(a) The Secretary of State may settle, for not more than \$1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

**§ 3726. Payment for transportation**

(a) A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government shall be paid before the Administrator of General Services conducts an audit. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

- (1) accrual of the claim;
- (2) payment for the transportation is made;
- (3) refund for an overpayment for the transportation is made;

or

- (4) a deduction under subsection (b) of this section is made.

(b) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

- (1) a lawful tariff on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, or a State transportation authority; or

- (2) sections 10721-10724 of title 49 or an equivalent arrangement or an exemption.

(c) Under regulations the head of an agency prescribes that conform with standards the Secretary of the Treasury and the Comptroller General prescribe jointly, a bill under this section may be paid before the transportation is completed notwithstanding section 3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(d)(1) A carrier or freight forwarder may request the Comptroller General to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (a) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

**§ 3727. Assignments of claims**

(a) In this section, "assignment" means—

- (1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or
- (2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least \$1,000 when—

- (1) the contract does not forbid an assignment;

49 USC  
10721-10724.

*Ante*, p. 958.

"Assignment."

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment.

#### § 3728. Setoff against judgment

(a) The Comptroller General shall withhold paying that part of a judgment against the United States Government presented to the Comptroller General that is equal to a debt the plaintiff owes the Government.

(b) The Comptroller General shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Comptroller General decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Comptroller General withholds under this section, the Comptroller General shall pay the plaintiff



the balance and interest of 6 percent for the time the money is withheld.

#### **§ 3729. False claims**

Penalty.

A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of \$2,000, an amount equal to 2 times the amount of damages the Government sustains because of the act of that person, and costs of the civil action, if the person—

(1) knowingly presents, or causes to be presented, to an officer or employee of the Government or a member of an armed force a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of public property or money used, or to be used, in an armed force and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, in an armed force and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true; or

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from a member of an armed force who lawfully may not sell or pledge the property.

#### **§ 3730. Civil actions for false claims**

(a) The Attorney General diligently shall investigate a violation under section 3729 of this title. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person. The person may be arrested and bail set for an amount of not more than \$2,000 and 2 times the amount of damages sworn to in an affidavit of the Attorney General.

(b)(1) A person may bring a civil action for a violation of section 3729 of this title for the person and for the United States Government. The action shall be brought in the name of the Government. The district courts of the United States have jurisdiction of the action. Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs. An action may be dismissed only if the court and the Attorney General give written consent and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The Government may proceed with the action by entering an appearance by the 60th day after being notified. The person bringing the action may proceed with the action if the Government—

(A) by the end of the 60-day period does not enter, or gives written notice to the court of intent not to enter, the action; or

(B) does not proceed with the action with reasonable diligence within 6 months after entering an appearance, or within additional time the court allows after notice.

(3) If the Government proceeds with the action, the action is conducted only by the Government. The Government is not bound by an act of the person bringing the action.

(4) Unless the Government proceeds with the action, the court shall dismiss an action brought by the person on discovering the action is based on evidence or information the Government had when the action was brought.

(c)(1) If the Government proceeds with an action, the person bringing the action may receive an amount the court decides is reasonable for disclosing evidence or information the Government did not have when the action was brought. The amount may not be more than 10 percent of the proceeds of the action or settlement of a claim and shall be paid out of those proceeds.

(2) If the Government does not proceed with an action, the person bringing the action or settling the claim may receive an amount the court decides is reasonable for collecting the civil penalty and damages. The amount may not be more than 25 percent of the proceeds of the action or settlement and shall be paid out of those proceeds. The person may also receive an amount for reasonable expenses the court finds to have been necessarily incurred and costs awarded against the defendant.

(d) The Government is not liable for expenses a person incurs in bringing an action under this section.

### § 3731. False claims procedure

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed.

## SUBTITLE IV—MONEY

CHAPTER	Sec.
51. COINS AND CURRENCY.....	5101
53. MONETARY TRANSACTIONS.....	5301

### CHAPTER 51—COINS AND CURRENCY

#### SUBCHAPTER I—MONETARY SYSTEM

Sec.
5101. Decimal system.
5102. Standard weight.
5103. Legal tender.

#### SUBCHAPTER II—GENERAL AUTHORITY

5111. Minting and issuing coins, medals, and numismatic items.
5112. Denominations, specifications, and design of coins.
5113. Tolerances and testing of coins.
5114. Engraving and printing currency and security documents.
5115. United States currency notes.
5116. Buying and selling gold and silver.
5117. Transferring gold and gold certificates.
5118. Gold clauses and consent to sue.
5119. Redemption and cancellation of currency.
5120. Obsolete, mutilated, and worn coins and currency.
5121. Refining, assaying, and valuation of bullion.

Sec.  
5122. Payment to depositors.

#### SUBCHAPTER III—BUREAU OF THE MINT

5131. Organization.  
5132. Administrative.  
5133. Settlement of accounts.

#### SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

5141. Operation of the Bureau.  
5142. Bureau of Engraving and Printing Fund.  
5143. Payment for services.  
5144. Providing impressions of portraits and vignettes.

#### SUBCHAPTER V—MISCELLANEOUS

5151. Conversion of currency of foreign countries.  
5152. Value of United States money holdings in international institutions.  
5153. Counterfeit currency.  
5154. State taxation.  
5155. Providing engraved plates of portraits of deceased members of Congress.

### SUBCHAPTER I—MONETARY SYSTEM

#### § 5101. Decimal system

United States money is expressed in dollars, dimes or tenths, cents or hundredths, and mills or thousandths. A dime is a tenth of a dollar, a cent is a hundredth of a dollar, and a mill is a thousandth of a dollar.

#### § 5102. Standard weight

The standard troy pound of the National Bureau of Standards of the Department of Commerce shall be the standard used to ensure that the weight of United States coins conforms to specifications in section 5112 of this title.

#### § 5103. Legal tender

United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts. Foreign gold or silver coins are not legal tender for debts.

### SUBCHAPTER II—GENERAL AUTHORITY

#### § 5111. Minting and issuing coins, medals, and numismatic items

##### (a) The Secretary of the Treasury—

(1) shall mint and issue coins described in section 5112 of this title in amounts the Secretary decides are necessary to meet the needs of the United States;

(2) may prepare national medal dies and strike national and other medals if it does not interfere with regular minting operations but may not prepare private medal dies;

(3) may prepare and distribute numismatic items; and

(4) may mint coins for a foreign country if the minting does not interfere with regular minting operations, and shall prescribe a charge for minting the foreign coins equal to the cost of the minting (including labor, materials, and the use of machinery).

(b) The Department of the Treasury has a coinage metal fund and a coinage profit fund. The Secretary may use the coinage metal fund to buy metal to mint coins. The Secretary shall credit the coinage

profit fund with the amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal. The Secretary shall charge the coinage profit fund with waste incurred in minting coins and the cost of distributing the coins. The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund.

(c) The Secretary may make contracts on conditions the Secretary decides are appropriate and in the public interest to acquire equipment, manufacturing facilities, patents, patent rights, technical knowledge and assistance, and materials necessary to produce rapidly an adequate supply of coins referred to in section 5112(a)(1)-(4) of this title.

Contract  
authority.

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under paragraph (1) of this subsection, shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

Penalty.

(3) Coins exported, melted, or treated in violation of an order or license issued or regulation prescribed, and metal resulting from the melting or treatment, shall be forfeited to the United States Government. The powers of the Secretary and the remedies available to enforce forfeitures are those provided in part II of subchapter C of chapter 75 of the Internal Revenue Code of 1954 (26 U.S.C. 7321 et seq.).

#### § 5112. Denominations, specifications, and design of coins

(a) The Secretary of the Treasury may mint and issue only the following coins:

(1) a dollar coin that is 1.043 inches in diameter and weighs 8.1 grams.

(2) a half dollar coin that is 1.205 inches in diameter and weighs 11.34 grams.

(3) a quarter dollar coin that is 0.955 inch in diameter and weighs 5.67 grams.

(4) a dime coin that is 0.705 inch in diameter and weighs 2.268 grams.

(5) a 5-cent coin that is 0.835 inch in diameter and weighs 5 grams.

(6) except as provided under subsection (c) of this section, a one-cent coin that is 0.75 inch in diameter and weighs 3.11 grams.

(b) The dollar, half dollar, quarter dollar, and dime coins are clad coins with 3 layers of metal. The 2 identical outer layers are an alloy of 75 percent copper and 25 percent nickel. The inner layer is copper. The outer layers are metallurgically bonded to the inner layer and weigh at least 30 percent of the weight of the coin. The 5-cent coin is an alloy of 75 percent copper and 25 percent nickel. In minting 5-cent coins, the Secretary shall use bars that vary not more than 2.5 percent from the percent of nickel required. Except as provided under subsection (c) of this section, the one-cent coin is an alloy of 95 percent copper and 5 percent zinc. The specifications for alloys are by weight.

(c) The Secretary may prescribe the weight and the composition of copper and zinc in the alloy of the one-cent coin that the Secretary

decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of one-cent coins to meet the needs of the United States.

(d)(1) United States coins have the inscription "In God We Trust". The obverse side of each coin has the inscription "Liberty". The reverse side of each coin has the inscriptions "United States of America" and "E Pluribus Unum" and a designation of the value of the coin. The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle. The eagle on the reverse side of the dollar is the symbolic eagle of Apollo 11 landing on the moon. The obverse side of the dollar has the likeness of Susan B. Anthony. The coins have an inscription of the year of minting or issuance. However, to prevent or alleviate a shortage of a denomination, the Secretary may inscribe coins of the denomination with the year that was last inscribed on coins of the denomination.

(2) The Secretary shall prepare the devices, models, hubs, and dies for coins, emblems, devices, inscriptions, and designs authorized under this chapter. The Secretary may adopt and prepare new designs or models of emblems or devices that are authorized in the same way as when new coins or devices are authorized. The Secretary may change the design or die of a coin only once within 25 years of the first adoption of the design, model, hub, or die for that coin. The Secretary may procure services under section 3109 of title 5 in carrying out this paragraph.

5 USC 3109.

(e) Notwithstanding section 5111(a)(1) of this title and subsections (a) and (b) of this section, the Secretary may mint and issue not more than 150,000,000 dollar coins that—

- (1) are 1.5 inches in diameter and weigh 24.592 grams;
- (2) have 2 identical outer layers of an alloy of 80 percent silver and 20 percent copper that are metallurgically bonded to an inner layer of an alloy of silver and copper;
- (3) contain 9.837 grams of silver and 14.755 grams of copper;
- (4) have the likeness of Dwight David Eisenhower on the obverse side;
- (5) have the inscription of a year decided by the Secretary; and
- (6) except as provided in this paragraph, have the inscriptions and designs provided for the dollar in subsection (d)(1) of this section.

(f)(1) Notwithstanding this section and section 5111(a)(1) of this title, the Secretary shall mint and issue, in quantities the Secretary decides are necessary to meet public demand (but not more than 10,000,000) half dollar coins that—

- (A) are 30.61 millimeters in diameter and weigh 12.5 grams;
- (B) are an alloy of 90 percent silver and 10 percent copper;
- (C) have a design on each side of the coin, decided by the Secretary, symbolizing the two hundred and fiftieth anniversary of the birth of George Washington; and

(D) have a designation of the value of the coin and an inscription of the year "1982" and the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) The Secretary shall sell the coins minted under this subsection to the public at a price equal to the cost of minting and distributing the coins (including labor, materials, dies, use of machinery, promotion, and overhead expenses) plus a surcharge of not more than 20 percent of the cost. The Secretary shall deposit an amount equal to

the surcharge received under this paragraph in the Treasury to be used only to reduce the national debt.

(3) The Secretary may not mint coins under this subsection after December 31, 1983.

(4) Amounts necessary to carry out this subsection may be appropriated.

#### **§ 5113. Tolerances and testing of coins**

(a) The Secretary of the Treasury may prescribe reasonable manufacturing tolerances for specifications in section 5112 of this title (except for specifications that are limits) for the dollar, half dollar, quarter dollar, and dime coins. The weight of the 5-cent coin may vary not more than 0.194 gram. The weight of the one-cent coin may vary not more than 0.13 gram.

(b) The Secretary shall keep a record of the kind, number, and weight of each group of coins minted and test a number of the coins separately to determine if the coins conform to the weight specified in section 5112(a) of this title. If the coins tested do not conform, the Secretary—

(1) shall weigh each coin of the group separately and deface the coins that do not conform and cast them into bars for reminting; or

(2) may remelt the group of coins.

#### **§ 5114. Engraving and printing currency and security documents**

(a) The Secretary of the Treasury shall engrave and print United States currency and bonds of the United States Government and currency and bonds of United States territories and possessions from intaglio plates on plate printing presses the Secretary selects. However, other security documents and checks may be printed by any process the Secretary selects. Engraving and printing shall be carried out within the Department of the Treasury if the Secretary decides the engraving and printing can be carried out as cheaply, perfectly, and safely as outside the Department.

(b) United States currency has the inscription "In God We Trust" in a place the Secretary decides is appropriate. Only the portrait of a deceased individual may appear on United States currency and securities. The name of the individual shall be inscribed below the portrait.

(c) The Secretary may make a contract for a period of not more than 4 years to manufacture distinctive paper for United States currency and securities. To promote competition among manufacturers of the distinctive paper, the Secretary may split the award for the manufacture of the paper between the 2 bidders with the lowest prices a pound. When the Secretary decides that it is necessary to operate more than one mill to manufacture distinctive paper, the Secretary may—

(1) employ individuals temporarily at rates of pay equivalent to the rates of pay of regular employees; and

(2) charge the pay of the temporary employees to the appropriation available for manufacturing distinctive paper.

Contract  
authority.

#### **§ 5115. United States currency notes**

(a) The Secretary of the Treasury may issue United States currency notes. The notes—

(1) are payable to bearer; and

(2) shall be in a form and in denominations of at least one dollar that the Secretary prescribes.

(b) The amount of United States currency notes outstanding and in circulation—

(1) may not be more than \$300,000,000; and

(2) may not be held or used for a reserve.

#### **§ 5116. Buying and selling gold and silver**

(a)(1) With the approval of the President, the Secretary of the Treasury may—

(A) buy and sell gold in the way, in amounts, at rates, and on conditions the Secretary considers most advantageous to the public interest; and

(B) buy the gold with any direct obligations of the United States Government or United States coins and currency authorized by law, or with amounts in the Treasury not otherwise appropriated.

(2) Amounts received from the purchase of gold are an asset of the general fund of the Treasury. Amounts received from the sale of gold shall be deposited in the general fund of the Treasury.

(b)(1) The Secretary shall buy silver mined from natural deposits in the United States, or in a territory or possession of the United States, that is brought to a United States mint or assay office within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay \$1.25 a fine troy ounce for the silver. The Secretary may use the coinage metal fund under section 5111(b) of this title to buy silver under this subsection.

(2) The Secretary may sell or use Government silver to mint coins, except silver transferred to stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall sell silver under conditions the Secretary considers appropriate for at least \$1.292929292 a fine troy ounce.

#### **§ 5117. Transferring gold and gold certificates**

(a) All right, title, and interest, and every claim of the Board of Governors of the Federal Reserve System, a Federal reserve bank, and a Federal reserve agent, in and to gold is transferred to and vests in the United States Government to be held in the Treasury. Payment for the transferred gold is made by crediting equivalent amounts in dollars in accounts established in the Treasury under the 15th paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 467). Gold not in the possession of the Government shall be held in custody for the Government and delivered on the order of the Secretary of the Treasury. The Board of Governors, Federal reserve banks, and Federal reserve agents shall give instructions and take action necessary to ensure that the gold is so held and delivered.

(b) The Secretary shall issue gold certificates against gold transferred under subsection (a) of this section. The Secretary may issue gold certificates against other gold held in the Treasury. The Secretary may prescribe the form and denominations of the certificates. The amount of outstanding certificates may be not more than the value (for the purpose of issuing those certificates, of 42 and two-ninths dollars a fine troy ounce) of the gold held against gold certificates. The Secretary shall hold gold in the Treasury equal to the required dollar amount as security for gold certificates issued after January 29, 1934.

(c) With the approval of the President, the Secretary may prescribe regulations the Secretary considers necessary to carry out this section.

#### § 5118. Gold clauses and consent to sue

(a) In this section—

Definitions.

(1) “gold clause” means a provision in or related to an obligation alleging to give the obligee a right to require payment in—

(A) gold;

(B) a particular United States coin or currency; or

(C) United States money measured in gold or a particular United States coin or currency.

(2) “public debt obligation” means a domestic obligation issued or guaranteed by the United States Government to repay money or interest.

(b) The United States Government may not pay out or deliver any gold coin. A person lawfully holding United States coins and currency may present the coins and currency to the Secretary of the Treasury for exchange (dollar for dollar) for other United States coins and currency that may be lawfully held. The Secretary shall make the exchange under regulations prescribed by the Secretary.

(c)(1) The Government withdraws its consent given to anyone to assert against the Government, its agencies, or its officers, employees, or agents, a claim—

(A) on a gold clause public debt obligation or interest on the obligation;

(B) for United States coins or currency; or

(C) arising out of the surrender, requisition, seizure, or acquisition of United States coins or currency, gold, or silver involving the effect or validity of a change in the metallic content of the dollar or in a regulation about the value of money.

(2) Paragraph (1) of this subsection does not apply to a proceeding in which no claim is made for payment or credit in an amount greater than the face or nominal value in dollars of public debt obligations or United States coins or currency involved in the proceeding.

(3) Except when consent is not withdrawn under this subsection, an amount appropriated for payment on public debt obligations and for United States coins and currency may be expended only dollar for dollar.

(d)(1) In this subsection, “obligation” means any obligation (except United States currency) payable in United States money.

“Obligation.”

(2) An obligation issued containing a gold clause or governed by a gold clause is discharged on payment (dollar for dollar) in United States coin or currency that is legal tender at the time of payment. This paragraph does not apply to an obligation issued after October 27, 1977.

#### § 5119. Redemption and cancellation of currency

(a) Except to the extent authorized in regulations the Secretary of the Treasury prescribes with the approval of the President, the Secretary may not redeem United States currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) in gold. However, the Secretary shall redeem gold certificates owned by the Federal reserve banks at times and in amounts the Secretary decides are necessary to maintain the equal purchasing power of each kind of United States currency. When



redemption in gold is authorized, the redemption may be made only in gold bullion bearing the stamp of a United States mint or assay office in an amount equal at the time of redemption to the currency presented for redemption.

(b)(1) Except as provided in subsection (c)(1) of this section, the following are public debts bearing no interest:

(A) gold certificates issued before January 30, 1934.

(B) silver certificates.

(C) notes issued under the Act of July 14, 1890 (ch. 708, 26 Stat. 289).

(D) Federal Reserve notes for which payment was made under section 4 of the Old Series Currency Adjustment Act.

(E) United States currency notes, including those issued under section 1 of the Act of February 25, 1862 (ch. 33, 12 Stat. 345), the Act of July 11, 1862 (ch. 142, 12 Stat. 532), the resolution of January 17, 1863 (P.R. 9; 12 Stat. 822), section 2 of the Act of March 3, 1863 (ch. 73, 12 Stat. 710), or section 5115 of this title.

(2) The Secretary shall redeem from the general fund of the Treasury and cancel and destroy currency referred to in paragraph (1) of this subsection when the currency is presented to the Secretary.

(c)(1) The Secretary may determine the amount of the following United States currency that will not be presented for redemption because the currency has been destroyed or irretrievably lost:

(A) circulating notes of Federal reserve banks and national banks issued before July 1, 1929, for which the United States Government has assumed liability.

(B) outstanding currency referred to in subsection (b)(1) of this section.

(2) When the Secretary makes a determination under this subsection, the Secretary shall reduce the amount of that currency outstanding by the amount the Secretary determines will not be redeemed and credit the appropriate receipt account.

(d) To provide a historical collection of United States currency, the Secretary may withhold from cancellation and destruction and transfer to a special account one piece of each design, issue, or series of each denomination of each kind of currency (including circulating notes of Federal reserve banks and national banks) after redemption. The Secretary may make appropriate entries in Treasury accounts because of the transfers.

#### **§ 5120. Obsolete, mutilated, and worn coins and currency**

(a)(1) The Secretary of the Treasury shall melt obsolete and worn United States coins withdrawn from circulation. The Secretary may use the metal from melting the coins for reminting or may sell the metal. The Secretary shall account for the following in the coinage metal fund under section 5111(b) of this title:

(A) obsolete and worn coins and the metal from melting the coins.

(B) proceeds from the sale of the metal.

(C) losses incurred in the sale of the metal.

(D) losses incurred because of the difference between the face value of the coins melted and the coins minted from the metal.

(2) The Secretary shall reimburse the coinage metal fund for losses under paragraph (1)(C) and (D) of this subsection out of amounts in the coinage profit fund under section 5111(b) of this title.

(b) The Secretary shall—

(1) cancel and destroy (by a secure process) obsolete, mutilated, and worn United States currency withdrawn from circulation; and

(2) dispose of the residue of the currency and notes.

(c) The Comptroller General shall audit the cancellation and destruction of United States currency and the accounting of the cancellation and destruction. Records the Comptroller General considers necessary to make an effective audit easier shall be made available to the Comptroller General.

Audit.

**§ 5121. Refining, assaying, and valuation of bullion**

(a) The Secretary of the Treasury shall—

(1) melt and refine bullion;

(2) as required, assay coins, metal, and bullion;

(3) cast gold and silver bullion deposits into bars; and

(4) cast alloys into bars for minting coins.

(b) A person owning gold or silver bullion may deposit the bullion with the Secretary to be cast into fine, standard fineness, or unrefined bars weighing at least 5 troy ounces. When practicable, the Secretary shall weigh the bullion in front of the depositor. The Secretary shall give the depositor a receipt for the bullion stating the description and weight of the bullion. When the Secretary has to melt the bullion or remove base metals before the value of the bullion can be determined, the weight is the weight after the melting or removal of the metals. The Secretary may refuse a deposit of gold bullion if the deposit is less than \$100 in value or the bullion is so base that it is unsuitable for the operations of the Bureau of the Mint.

(c) When the gold and silver are combined in bullion that is deposited and either the gold or silver is so little that it cannot be separated economically, the Secretary may not pay the depositor for the gold or silver that cannot be separated.

(d)(1) Under conditions prescribed by the Secretary, a person may exchange unrefined bullion for fine bars when—

(A) gold and silver are combined in the bullion in proportions that cannot be economically refined; or

(B) necessary supplies of acids cannot be procured at reasonable rates.

(2) The charge for refining in an exchange under this subsection may be not more than the charge imposed in an exchange of unrefined bullion for refined bullion.

(e) The Secretary shall prepare bars for payment of deposits. The Secretary shall stamp each bar with a designation of the weight and fineness of the bar and a symbol the Secretary considers suitable to prevent fraudulent imitation of the bar.

**§ 5122. Payment to depositors**

(a) The Secretary of the Treasury shall determine the fineness, weight, and value of each deposit and bar under section 5121 of this title. The value and the amount of charges under subsection (b) of this section shall be based on the fineness and weight of the bullion. The Secretary shall give the depositor a statement of the charges and the net amount of the deposit to be paid in money or bars of the same species of bullion as that deposited.

(b) The Secretary shall impose a charge equal to the average cost of material, labor, waste, and use of machinery of a United States mint or assay office for—

- (1) melting and refining bullion;
- (2) using copper as an alloy when bullion deposited is above standard;
- (3) separating gold and silver combined in the bullion; and
- (4) preparing bars.

(c) The Secretary shall pay to the depositor or to a person designated by the depositor money or bars equivalent to the bullion deposited as soon as practicable after the value of the deposit is determined. If demanded, the Secretary shall pay depositors in the order in which the bullion is deposited with the Secretary. However, when there is an unavoidable delay in determining the value of a deposit, the Secretary shall pay subsequent depositors. When practicable and convenient, the Secretary shall pay depositors in the denominations requested by the depositor. After the depositor is paid, the bullion is the property of the United States Government.

(d) To allow the Secretary to pay depositors with as little delay as possible, the Secretary shall keep in the mints and assay offices, when possible, money and bullion the Secretary decides are convenient and necessary.

### SUBCHAPTER III—BUREAU OF THE MINT

#### § 5131. Organization

(a) The Bureau of the Mint has—

- (1) a United States mint at Philadelphia, Pennsylvania.
- (2) a United States mint at Denver, Colorado.
- (3) a United States assay office at New York, New York.
- (4) a United States assay office at San Francisco, California.

(b) The Secretary of the Treasury shall carry out duties and powers related to refining and assaying bullion, minting coins, striking medals, and numismatic items at the mints and assay offices, except that only bars may be made at the assay offices. However, until the Secretary decides that the mints are adequate for minting and striking an ample supply of coins and medals, the Secretary may use any facility of the Bureau to mint coins and strike medals and to store coins and medals.

(c) Each mint and the assay office at New York have a superintendent and an assayer appointed by the President, by and with the advice and consent of the Senate. The mint at Philadelphia has an engraver appointed by the President, by and with the advice and consent of the Senate.

(d) Laws on mints, officers and employees of mints, and punishment of offenses related to mints and minting coins apply to assay offices, as applicable.

(e) The Secretary shall operate, maintain, and have custody of, the mint at Philadelphia. However, the Administrator of General Services shall make repairs and improvements to the mint.

#### § 5132. Administrative

(a)(1) Except as provided in this chapter, the Secretary of the Treasury shall deposit in the Treasury as miscellaneous receipts amounts the Secretary receives from the operations of the Bureau of the Mint. However, amounts from numismatic items shall be reim-

bursed to the current appropriation used to pay the cost of preparing and selling the items. The Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 of this title to pay officers and employees. The Secretary shall pay the costs of the mints and assay offices not provided for in this subsection out of appropriations.

(2) Not more than \$54,706,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1982, to pay costs of the mints and assay offices.

Limitation.

(b) To the extent the Secretary decides is necessary, the Secretary may use amounts received from depositors for refining bullion and the proceeds from the sale of byproducts (including spent acids from surplus bullion recovered in refining processes) to pay the costs of refining the bullion (including labor, material, waste, and loss on the sale of sweeps). The Secretary may not use amounts appropriated for the mints and assay offices to pay those costs.

(c) The Secretary shall make an annual report at the end of each fiscal year on the operation of the Bureau.

Annual report.

### § 5133. Settlement of accounts

(a) The Secretary of the Treasury shall—

(1) charge the superintendent of each mint and the assay office at New York and the officer in charge of the assay office at San Francisco with the amount in weight of standard metal of bullion the superintendent or officer receives from the Secretary;

(2) credit each superintendent and the officer with the amount in weight of coins, clippings, and other bullion the superintendent or officer returns to the Secretary; and

(3) charge separately to each superintendent and the officer, who shall account for, copper to be used in the alloy of gold and silver bullion.

(b) At least once a year, the Secretary shall settle the accounts of the superintendents and the officer in charge. At settlement, each superintendent and the officer shall return to the Secretary coins, clippings, and other bullion in their possession with a statement of bullion received and returned since the last settlement (including bullion returned for settlement). The Secretary shall—

(1) audit the accounts and statements of each superintendent and the officer;

Audit.

(2) allow each superintendent the waste of precious metals, within limitations prescribed by the Secretary, that the Secretary decides is necessary for refining and minting; and

(3) allow the officer the waste, within the limitations prescribed for refining, that the Secretary decides is necessary in casting fine gold and silver bars, except that the waste allowance may not apply to deposit operations.

(c) After settlement, the Secretary shall compare the amount of gold and silver bullion and coins on hand with the total liabilities of the mints and assay offices. The Secretary also shall make a statement of the ordinary expense account.

(d) The Secretary shall procure for each mint and assay office a series of standard weights corresponding to the standard troy pound of the National Bureau of Standards of the Department of Commerce. The series shall include a one pound weight and multiples and subdivisions of one pound from .01 grain to 25 pounds. At least

once a year, the Secretary shall test the weights normally used in transactions at the mints and assay offices against the standard weights.

#### SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

##### § 5141. Operation of the Bureau

Annual budget,  
submittal to  
President.

(a) The Secretary of the Treasury shall prepare and submit to the President an annual business-type budget for the Bureau of Engraving and Printing.

(b)(1) The Secretary shall maintain in the Bureau an integrated accounting system with internal controls that—

(A) ensures adequate control over assets and liabilities of the Bureau of Engraving and Printing Fund described in section 5142 of this title;

(B) develops accurate production costs to enable the Bureau to recover those costs on the basis of the work requisitioned;

(C) provides for replacement of capitalized equipment and other fixed assets by maintaining adequate depreciation reserves based on original cost or appraised values;

(D) discloses the financial condition and operations of the Fund on an accrual basis of accounting; and

(E) provides information for the prior fiscal year on the annual budget of the Bureau.

(2) The accounting system shall conform to principles and standards prescribed by the Comptroller General to carry out this subsection. The Comptroller General may review the system to ensure conformity to the principles and standards and its effectiveness of operation.

Pay rate.

(c) An officer or employee in the clerical-mechanical service of the Bureau assigned to an established shift or tour of duty at least half of which occurs between 6 p.m. and 6 a.m. is entitled to pay for the regular 40-hour week (except when on leave) at a rate of pay 15 percent higher than the day rate for the same work.

##### § 5142. Bureau of Engraving and Printing Fund

(a) The Department of the Treasury has a Bureau of Engraving and Printing Fund. Amounts—

(1) in the Fund are available to operate the Bureau of Engraving and Printing;

(2) in the Fund remain available until expended; and

(3) may be appropriated to the Fund.

(b) The Fund consists of—

(1) property and physical assets (except buildings and land) acquired by the Bureau;

(2) all amounts received by the Bureau; and

(3) proceeds from the disposition of property and assets acquired by the Fund.

(c) The capital of the Fund consists of—

(1) amounts appropriated to the Fund;

(2) physical assets of the Bureau (except buildings and land) as of the close of business June 30, 1951; and

(3) all payments made after June 30, 1974, under section 5143 of this title at prices adjusted to permit buying capital equipment and to provide future working capital.

(d) The Secretary shall deposit each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing to the Fund in the prior fiscal year that the Secretary decides are in excess of the needs of the Fund. However, the Secretary may use the excess amounts to restore capital of the Fund reduced by the difference between the charges for services of the Bureau and the cost of providing those services.

(e) The Secretary shall maintain a special deposit account in the Treasury for the Fund. The Secretary shall credit the account with amounts appropriated to the Fund and receipts of the Bureau without depositing the receipts in the Treasury as miscellaneous receipts.

#### **§ 5143. Payment for services**

The Secretary of the Treasury shall impose charges for Bureau of Engraving and Printing services the Secretary provides to an agency. The charges shall be in amounts the Secretary considers adequate to cover the costs of the services (including administrative costs related to providing the services). The agency shall pay promptly bills submitted by the Secretary.

#### **§ 5144. Providing impressions of portraits and vignettes**

The Secretary of the Treasury may provide impressions from an engraved portrait or vignette in the possession of the Bureau of Engraving and Printing. An impression shall be provided—

(1) at the request of—

- (A) a member of Congress;
- (B) a head of an agency;
- (C) an art association; or
- (D) a library; and

(2) for a charge and under conditions the Secretary decides are necessary to protect the public interest.

### **SUBCHAPTER V—MISCELLANEOUS**

#### **§ 5151. Conversion of currency of foreign countries**

(a) In this section—

(1) “buying rate” means the buying rate in the market in New York, New York, for cable transfers payable in the currency of a foreign country to be converted.

“Buying rate.”

(2) when merchandise is exported on a day that banks are generally closed in New York, the buying rate at noon on the last prior business day is deemed to be the buying rate at noon on the day the merchandise is exported.

(b) The value of coins of a foreign country expressed in United States money is the value of the pure metal of the standard coin of the foreign country. The Secretary of the Treasury shall estimate the values of standard coins of the country quarterly and publish the values on the first day of January, April, July, and October of each year.

(c) Except as provided in this section, conversion of currency of a foreign country into United States currency for assessment and collection of duties on merchandise imported into the United States shall be made at values published by the Secretary under subsection (b) of this section for the quarter in which the merchandise is exported.

(d) If the Secretary has not published a value for the quarter in which the merchandise is exported, or if the value published by the Secretary varies by at least 5 percent from a value measured by the buying rate at noon on the day the merchandise is exported, the conversion of the currency of the foreign country shall be made at a value—

(1) equal to the buying rate at noon on the day the merchandise is exported; or

(2) prescribed by regulation of the Secretary for the currency that is equal to the first buying rate certified for that currency by the Federal Reserve Bank of New York under subsection (e) of this section in the quarter in which the merchandise is exported, but only if the buying rate at noon on the day the merchandise is exported varies less than 5 percent from the buying rate first certified.

(e) The Federal Reserve Bank of New York shall decide the buying rate and certify the rate to the Secretary. The Secretary shall publish the rate at times and to the extent the Secretary considers necessary. In deciding the buying rate, the Bank may—

(1) consider the last ascertainable transactions and quotations (direct or through exchange of other currencies); and

(2) if there is no buying rate, calculate the rate from—

(A) actual transactions and quotations in demand or time bills of exchange; or

(B) the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or foreign currency.

#### **§ 5152. Value of United States money holdings in international institutions**

The Secretary of the Treasury shall maintain the value in terms of gold of the holdings of United States money of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of those institutions. Amounts necessary to maintain the value may be appropriated. Amounts appropriated under this section remain available until expended.

#### **§ 5153. Counterfeit currency**

Disbursing officials of the United States Government and officers of national banks shall stamp or mark the word “counterfeit”, “altered”, or “worthless” on counterfeit notes intended to circulate as currency that are presented to them. An official or officer wrongfully stamping or marking an item of genuine United States currency (including a Federal reserve note or a circulating note of Federal reserve banks and national banks) shall redeem the currency at face value when presented.

#### **§ 5154. State taxation**

A State or a territory or possession of the United States may tax United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) as money on hand or on deposit in the same way and at the same rate that the State, territory, or possession taxes United States coins and currency circulating within its jurisdiction. This section does not affect a law taxing national banks.

**§ 5155. Providing engraved plates of portraits of deceased members of Congress**

On conditions the Secretary of the Treasury decides, the Secretary may send an engraved plate of a portrait of a deceased Senator or Representative to an heir or legal representative of such a Senator or Representative.

**CHAPTER 53—MONETARY TRANSACTIONS****SUBCHAPTER I—CREDIT AND MONETARY EXPANSION**

Sec.

- 5301. Buying obligations of the United States Government.
- 5302. Stabilizing exchange rates and arrangements.
- 5303. Reserved coins and currencies of foreign countries.
- 5304. Regulations.

**SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS**

- 5311. Declaration of purpose.
- 5312. Definitions and application.
- 5313. Reports on domestic coins and currency transactions.
- 5314. Records and reports on foreign financial agency transactions.
- 5315. Reports on foreign currency transactions.
- 5316. Reports on exporting and importing monetary instruments.
- 5317. Search and forfeiture of monetary instruments.
- 5318. Compliance and exemptions.
- 5319. Availability of reports.
- 5320. Injunctions.
- 5321. Civil penalties.
- 5322. Criminal penalties.

**SUBCHAPTER I—CREDIT AND MONETARY EXPANSION****§ 5301. Buying obligations of the United States Government**

(a) The President may direct the Secretary of the Treasury to make an agreement with the Federal reserve banks and the Board of Governors of the Federal Reserve System when the President decides that the foreign commerce of the United States is affected adversely because—

- (1) the value of coins and currency of a foreign country compared to the present standard value of gold is depreciating;
- (2) action is necessary to regulate and maintain the parity of United States coins and currency;
- (3) an economic emergency requires an expansion of credit; or
- (4) an expansion of credit is necessary so that the United States Government and the governments of other countries can stabilize the value of coins and currencies of a country.

(b) Under an agreement under subsection (a) of this section, the Board shall permit the banks (and the Board is authorized to permit the banks notwithstanding another law) to agree that the banks will—

- (1) conduct through each entire specified period open market operations in obligations of the United States Government or corporations in which the Government is the majority stockholder; and
- (2) buy directly and hold an additional \$3,000,000,000 of obligations of the Government for each agreed period, unless the Secretary consents to the sale of the obligations before the end of the period.



(c) With the approval of the Secretary, the Board may require Federal reserve banks to take action the Secretary and Board consider necessary to prevent unreasonable credit expansion.

#### **§ 5302. Stabilizing exchange rates and arrangements**

(a)(1) The Department of the Treasury has a stabilization fund. The fund is available to carry out this section, section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e-3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286o), and for investing in obligations of the United States Government those amounts in the fund the Secretary of the Treasury, with the approval of the President, decides are not required at the time to carry out this section. Proceeds of sales and investments, earnings, and interest shall be paid into the fund and are available to carry out this section. However, the fund is not available to pay administrative expenses.

(2) Subject to approval by the President, the fund is under the exclusive control of the Secretary, and may not be used in a way that direct control and custody pass from the President and the Secretary. Decisions of the Secretary are final and may not be reviewed by another officer or employee of the Government.

(b) Consistent with the obligations of the Government in the International Monetary Fund on orderly exchange arrangements and a stable system of exchange rates, the Secretary or an agency designated by the Secretary, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities the Secretary considers necessary. However, a loan or credit to a foreign entity or government of a foreign country may be made for more than 6 months in any 12-month period only if the President gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than 6 months.

(c)(1) By the 30th day after the end of each month, the Secretary shall give the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a detailed financial statement on the stabilization fund showing all agreements made or renewed, all transactions occurring during the month, and all projected liabilities.

(2) The Secretary shall report each year to the President and Congress on the operation of the fund.

(d) A repayment of any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund, shall be deposited in the Treasury as a miscellaneous receipt.

#### **§ 5303. Reserved coins and currencies of foreign countries**

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

#### **§ 5304. Regulations**

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

(1) to carry out section 5301 of this title; and

Reports to  
President and  
Congress.

(2) the Secretary considers necessary to carry out section 5302 of this title.

## SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

### § 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

### § 5312. Definitions and application

(a) In this subchapter—

(1) “financial agency” means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) “financial institution” means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money;

(S) a telegraph company;

(T) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2); or

(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes.

(3) “monetary instruments” means—

(A) United States coins and currency; and

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material.

1 USC 1.

(4) "person", in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(5) "United States" means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) "domestic financial agency" and "domestic financial institution" apply to an action in the United States of a financial agency or institution.

(2) "foreign financial agency" and "foreign financial institution" apply to an action outside the United States of a financial agency or institution.

### § 5313. Reports on domestic coins and currency transactions

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411 of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(c)(1) A person (except a domestic financial institution designated under subsection (b) of this section) required to file a report under this section shall file the report—

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe—

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

**§ 5314. Records and reports on foreign financial agency transactions**

(a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency. The records and reports shall contain the following information in the way and to the extent the Secretary prescribes:

- (1) the identity and address of participants in a transaction or relationship.
- (2) the legal capacity in which a participant is acting.
- (3) the identity of real parties in interest.
- (4) a description of the transaction.

(b) The Secretary may prescribe—

- (1) a reasonable classification of persons subject to or exempt from a requirement under this section or a regulation under this section;
  - (2) a foreign country to which a requirement or a regulation under this section applies if the Secretary decides applying the requirement or regulation to all foreign countries is unnecessary or undesirable;
  - (3) the magnitude of transactions subject to a requirement or a regulation under this section;
  - (4) the kind of transaction subject to or exempt from a requirement or a regulation under this section; and
  - (5) other matters the Secretary considers necessary to carry out this section or a regulation under this section.
- (c) A person shall be required to disclose a record required to be kept under this section or under a regulation under this section only as required by law.

**§ 5315. Reports on foreign currency transactions**

(a) Congress finds that—

- (1) moving mobile capital can have a significant impact on the proper functioning of the international monetary system;
- (2) it is important to have the most feasible current and complete information on the kind and source of capital flows, including transactions by large United States businesses and their foreign affiliates; and
- (3) additional authority should be provided to collect information on capital flows under section 5(b) of the Trading With the Enemy Act (50 App. U.S.C. 5(b)) and section 8 of the Bretton Woods Agreement Act (22 U.S.C. 286f).

(b) In this section, “United States person” and “foreign person controlled by a United States person” have the same meanings given those terms in section 7(f)(2) (A) and (C), respectively, of the Securities and Exchange Act of 1934 (15 U.S.C. 78g(f)(2)(A), (C)).

(c) The Secretary of the Treasury shall prescribe regulations consistent with subsection (a) of this section requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The regulations shall require that a report contain information and be

Regulations.

submitted at the time and in the way, with reasonable exceptions and classifications, necessary to carry out this section.

**§ 5316. Reports on exporting and importing monetary instruments**

(a) Except as provided in subsection (c) of this section, a person or an agent or bailee of the person shall file a report under subsection (b) of this section when the person, agent, or bailee knowingly—

(1) transports or has transported monetary instruments of more than \$5,000 at one time—

(A) from a place in the United States to or through a place outside the United States; or

(B) to a place in the United States from or through a place outside the United States; or

(2) receives monetary instruments of more than \$5,000 at one time transported into the United States from or through a place outside the United States.

(b) A report under this section shall be filed at the time and place the Secretary of the Treasury prescribes. The report shall contain the following information to the extent the Secretary prescribes:

(1) the legal capacity in which the person filing the report is acting.

(2) the origin, destination, and route of the monetary instruments.

(3) when the monetary instruments are not legally and beneficially owned by the person transporting the instruments, or if the person transporting the instruments personally is not going to use them, the identity of the person that gave the instruments to the person transporting them, the identity of the person who is to receive them, or both.

(4) the amount and kind of monetary instruments transported.

(5) additional information.

(c) This section or a regulation under this section does not apply to a common carrier of passengers when a passenger possesses a monetary instrument, or to a common carrier of goods if the shipper does not declare the instrument.

**§ 5317. Search and forfeiture of monetary instruments**

(a) The Secretary of the Treasury may apply to a court of competent jurisdiction for a search warrant when the Secretary reasonably believes a monetary instrument is being transported and a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. The Secretary shall include a statement of information in support of the warrant. On a showing of probable cause, the court may issue a search warrant for a designated person or a designated or described place or physical object. This subsection does not affect the authority of the Secretary under another law.

(b) A monetary instrument being transported may be seized and forfeited to the United States Government when a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. A monetary instrument transported by mail or a common carrier, messenger, or bailee is being transported under this subsection from the time the instrument is delivered to the United States Postal Service, common carrier, messenger, or bailee through the time it is delivered to the addressee, intended recipient, or agent of the addressee or intended

recipient without being transported further in, or taken out of, the United States.

#### § 5318. Compliance and exemptions

The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315)—

- (1) delegate duties and powers under this subchapter to an appropriate supervising agency;
- (2) require a class of domestic financial institutions to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter; and
- (3) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

#### § 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under section 5313, 5314, or 5316 of this title available to an agency on request of the head of the agency. The report shall be available for a purpose consistent with those sections or a regulation prescribed under those sections. However, a report and records of reports are exempt from disclosure under section 552 of title 5. 5 USC 552.

#### § 5320. Injunctions

When the Secretary of the Treasury believes a person has violated, is violating, or will violate this subchapter or a regulation prescribed or order issued under this subchapter, the Secretary may bring a civil action in the appropriate district court of the United States or appropriate United States court of a territory or possession of the United States to enjoin the violation or to enforce compliance with the subchapter, regulation, or order. An injunction or temporary restraining order shall be issued without bond.

#### § 5321. Civil penalties

(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) is liable to the United States Government for a civil penalty of not more than \$1,000. For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction

under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than \$10,000.

(b) The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.

(c) The Secretary may remit any part of a forfeiture under section 5317(b) of this title or civil penalty under subsection (a)(2) of this section.

**§ 5322. Criminal penalties**

(a) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) shall be fined not more than \$1,000, imprisoned for not more than one year, or both.

(b) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315), while violating another law of the United States or as part of a pattern of illegal activity involving transactions of more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 5 years, or both.

(c) For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

**SUBTITLE V—GENERAL ASSISTANCE  
ADMINISTRATION**

CHAPTER	Sec.
61. PROGRAM INFORMATION.....	6101
63. USING PROCUREMENT CONTRACTS AND GRANT AND COOP- ERATIVE AGREEMENTS.....	6301
65. INTERGOVERNMENTAL COOPERATION.....	6501
67. REVENUE SHARING.....	6701
69. PAYMENT FOR ENTITLEMENT LAND.....	6901
71. JOINT FUNDING SIMPLIFICATION.....	7101
73. ADMINISTERING BLOCK GRANTS.....	7301

**CHAPTER 61—PROGRAM INFORMATION**

Sec.
6101. Definitions.
6102. Program information requirements.
6103. Access to computer information system.
6104. Catalog of Federal domestic assistance programs.
6105. Authorization of appropriations.

**§ 6101. Definitions**

In this chapter—

- (1) “administering office” means the lowest unit of an agency responsible for managing a domestic assistance program.
- (2) “agency” has the same meaning given that term in section 551(1) of title 5.
- (3) “assistance”—

(A) means the transfer of anything of value for a public purpose of support or stimulation authorized by a law of the United States, including—

- (i) financial assistance;
- (ii) United States Government facilities, services, and property; and
- (iii) expert and technical information; and

(B) does not include conventional public information services or procurement of property or services for the direct benefit or use of the Government.

(4) “domestic assistance program”—

(A) means assistance from an agency for—

- (i) a State;
- (ii) the District of Columbia;
- (iii) a territory or possession of the United States;
- (iv) a county;
- (v) a city;
- (vi) a political subdivision or instrumentality of a governmental authority listed in subclauses (i)–(v) of this clause (A);
- (vii) a domestic corporation;
- (viii) a domestic institution; and
- (ix) an individual of the United States; and

(B) does not include a department, agency, or instrumentality of the Government.

**§ 6102. Program information requirements**

(a) The Director of the Office of Management and Budget shall prepare and maintain information on domestic assistance programs. The information on each domestic assistance program shall include the following:

(1) identification of the program by—

- (A) title;
- (B) authorizing law;
- (C) administering office; and
- (D) an identifying number assigned by the Director.

(2) a description of the—

- (A) program;
- (B) objectives of the program;
- (C) types of activities financed under the program;
- (D) eligibility requirements;
- (E) formulas governing distribution of amounts;
- (F) types of assistance;
- (G) uses, and restrictions on the use, of assistance; and
- (H) duties of recipients under the program.

(3) financial information, including the—

(A) amounts appropriated for the current fiscal year or, if unavailable, the amounts requested by the President and the amounts obligated; and

(B) average amounts of awards made in past years.

(4) identification of information contacts, including the administering office and regional and local offices with their addresses and telephone numbers.

(5) a general description of—

- (A) the application requirements and procedures; and
- (B) to the extent practical, an estimate of the time required to process the application.



(b) On request of the Director, an agency shall give to the Director current information on all domestic assistance programs administered by the agency. The Director shall incorporate on a regular basis all relevant information received.

(c) The Director—

(1) shall ensure that information and catalogs under this chapter are made available to the public at reasonable prices; and

(2) may develop information services to assist State and local governments in identifying and obtaining sources of assistance.

#### **§ 6103. Access to computer information system**

(a) The Director of the Office of Management and Budget shall maintain a computerized information system providing access to the information described in section 6102 of this title.

(b) To the greatest extent practicable, the Director shall provide for the widespread availability of the information by available computer terminals.

(c) When the Director decides the efficiency of the information system under subsection (a) of this section requires it, the Director may make contracts with private organizations to obtain computer time-sharing services, including—

(1) computer telecommunications networks;

(2) computer software; and

(3) associated services.

#### **§ 6104. Catalog of Federal domestic assistance programs**

(a) The Director of the Office of Management and Budget shall prepare and publish each year a catalog of domestic assistance programs.

(b) In a form selected by the Director, the catalog shall contain—

(1) all substantive information on domestic assistance programs that is in the system under section 6102(a) of this title at the time the catalog is prepared;

(2) information the Director decides may be helpful to a potential applicant for or beneficiary of assistance; and

(3) a detailed index.

(c) When the Director decides it is necessary, the Director shall prepare and publish—

(1) supplements to the catalog; and

(2) specialized compilations by function of information in the catalog.

(d) The Director may distribute a catalog without cost to each—

(1) member of Congress;

(2) department, agency, and instrumentality of the United States Government;

(3) State;

(4) general purpose unit of a local government;

(5) Indian tribe recognized by the United States Government;

(6) depository library of Government publications; and

(7) depository designated by the Director.

#### **§ 6105. Authorization of appropriations**

Not more than \$———,———,——— may be appropriated for the fiscal year ending September 30, 19—, to carry out this chapter.

**CHAPTER 63—USING PROCUREMENT CONTRACTS AND  
GRANT AND COOPERATIVE AGREEMENTS**

Sec.

- 6301. Purposes.
- 6302. Definitions.
- 6303. Using procurement contracts.
- 6304. Using grant agreements.
- 6305. Using cooperative agreements.
- 6306. Authority to vest title in tangible personal property for research.
- 6307. Interpretative guidelines and exemptions.
- 6308. Use of multiple relationships for different parts of jointly financed projects.

**§ 6301. Purposes**

The purposes of this chapter are to—

- (1) promote a better understanding of United States Government expenditures and help eliminate unnecessary administrative requirements on recipients of Government awards by characterizing the relationship between executive agencies and contractors, States, local governments, and other recipients in acquiring property and services and in providing United States Government assistance;
- (2) prescribe criteria for executive agencies in selecting appropriate legal instruments to achieve—
  - (A) uniformity in their use by executive agencies;
  - (B) a clear definition of the relationships they reflect; and
  - (C) a better understanding of the responsibilities of the parties to them; and
- (3) promote increased discipline in selecting and using procurement contracts, grant agreements, and cooperative agreements, maximize competition in making procurement contracts, and encourage competition in making grants and cooperative agreements.

**§ 6302. Definitions**

In this chapter—

- (1) “executive agency” does not include a mixed-ownership Government corporation.
- (2) “grant agreement” and “cooperative agreement” do not include an agreement under which is provided only—
  - (A) direct United States Government cash assistance to an individual;
  - (B) a subsidy;
  - (C) a loan;
  - (D) a loan guarantee; or
  - (E) insurance.
- (3) “local government” means a unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.
- (4) “other recipient” means a person or recipient (except a State or local government) authorized to receive United States Government assistance or procurement contracts and includes a charitable or educational institution.
- (5) “State” means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State,

regional, or interstate entity having governmental duties and powers.

#### **§ 6303. Using procurement contracts**

An executive agency shall use a procurement contract as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

- (1) the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; or
- (2) the agency decides in a specific instance that the use of a procurement contract is appropriate.

#### **§ 6304. Using grant agreements**

An executive agency shall use a grant agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

- (1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and
- (2) substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

#### **§ 6305. Using cooperative agreements**

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

- (1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and
- (2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

#### **§ 6306. Authority to vest title in tangible personal property for research**

The head of an executive agency may vest title in tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research—

- (1) when the property is bought with amounts provided under a procurement contract, grant agreement, or cooperative agreement with the institution or organization to conduct basic or applied scientific research;
- (2) when the head of the agency decides the vesting furthers the objectives of the agency;

- (3) without further obligation to the United States Government; and
- (4) under conditions the head of the agency considers appropriate.

#### **§ 6307. Interpretative guidelines and exemptions**

The Director of the Office of Management and Budget may—

- (1) issue supplementary interpretative guidelines to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements; and
- (2) exempt a transaction or program of an executive agency from this chapter.

#### **§ 6308. Use of multiple relationships for different parts of jointly financed projects**

This chapter does not require an executive agency to establish only one relationship between the United States Government and a State, a local government, or other recipient on a jointly financed project involving amounts from more than one program or appropriation when different relationships would otherwise be appropriate for different parts of the project.

### **CHAPTER 65—INTERGOVERNMENTAL COOPERATION**

Sec.

- 6501. Definitions.
- 6502. Information on grants received.
- 6503. Transfer and deposit requirements.
- 6504. Use of existing State or multimember agency to administer grant programs.
- 6505. Authority to provide specialized or technical services.
- 6506. Development assistance.
- 6507. Congressional review of grant programs.
- 6508. Studies and reports.

#### **§ 6501. Definitions**

In this chapter—

- (1) “assistance” means the transfer of anything of value for a public purpose of support or stimulation that is—
  - (A) authorized by a law of the United States;
  - (B) provided by the law of the United States Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and
  - (C) not an annual payment by the United States Government to the District of Columbia government under section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 813, D.C. Code, § 47-3406).
- (2) “comprehensive planning” includes, to the extent directly related to area needs or needs of a unit of general local government—
  - (A) preparation, as a guide for governmental policies and action, of general plans on—
    - (i) the pattern and intensity of land use;
    - (ii) providing public facilities (including transportation facilities) and other governmental services; and
    - (iii) the effective development and use of human and natural resources;

(B) long-range physical and fiscal plans for an action referred to in subclause (A) of this clause (2);

(C) a program for capital improvements and other major expenditures based on their relative urgency, and definitive financing plans for the expenditures in the earlier years of the program;

(D) coordination of related plans and activities of States and local governments and agencies concerned; and

(E) preparation of regulatory and administrative measures to support the items referred to in subclauses (A)–(D) of this clause (2).

(3) “executive agency” does not include a mixed-ownership Government corporation.

(4)(A) “grant” (except as provided in subclause (C) of this clause (4)) means money, or property provided instead of money, that is paid or provided by the United States Government under a fixed annual or total authorization, to a State, to a local government, or to a beneficiary under a plan or program administered by a State or a local government that is subject to approval by an executive agency, if the authorization—

(i) requires the State or local government to expend non-Government money as a condition of receiving money or property from the United States Government; or

(ii) specifies directly, or establishes by means of a formula, the amount that may be provided to the State or local government, or the amount to be allotted for use in each State by the State, local government, and beneficiaries.

(B) “grant” (except as provided in subclause (C) of this clause (4)) also means money, or property provided instead of money, that is paid or provided by the United States Government to a private, nonprofit community organization eligible to receive amounts under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(C) “grant” does not include—

(i) shared revenue;

(ii) payment of taxes;

(iii) payment instead of taxes;

(iv) a loan or repayable advance;

(v) surplus property or surplus agricultural commodities provided as surplus property;

(vi) a payment under a research and development procurement contract or grant awarded directly and on similar terms to all qualifying organizations; or

(vii) a payment to a State or local government as complete reimbursement for costs incurred in paying benefits or providing services to persons entitled to them under a law of the United States.

(5) “head of a State agency” includes the designated delegate of the head of the agency.

(6) “local government” means a unit of general local government, a school district, or other special district established under State law.

(7) “special-purpose unit of local government” means a special district, public-purpose local government of a State except a school district.

(8) “State” means a State of the United States, the District of Columbia, a territory or possession of the United States, and an

agency or instrumentality of a State but does not mean a local government of a State.

(9) "unit of general local government" means a county, city, town, village, or other general purpose political subdivision of a State.

#### **§ 6502. Information on grants received**

On request of a chief executive officer of a State, a State legislature, or an official designated by either of them, an executive agency carrying out a grant program to States and local governments shall provide the requesting officer or legislature with written information on the purpose and amounts of grants provided to the State or local government.

#### **§ 6503. Transfer and deposit requirements**

(a) Consistent with program purposes and regulations of the Secretary of the Treasury, the head of an executive agency carrying out a grant program shall schedule the transfer of grant money to minimize the time elapsing between transfer of the money from the Treasury and the disbursement by a State, whether disbursement occurs before or after the transfer. A State is not accountable for interest earned on grant money pending its disbursement for program purposes.

(b) A State may not be required by a law or regulation of the United States to deposit grant money received by it in a separate bank account. However, a State shall account for grant money made available to the State as United States Government grant money in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate executive agency on the status and the application of the money, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the grant received by the State shall be made available to the head of the executive agency and the Comptroller General for auditing.

#### **§ 6504. Use of existing State or multimember agency to administer grant programs**

Notwithstanding a law of the United States providing that one State agency or multimember agency must be established or designated to carry out or supervise the administration of a grant program, the head of the executive agency carrying out the program may, when requested by the executive or legislative authority of the State responsible for the organizational structure of a State government—

(1) waive the one State agency or multimember agency provision on an adequate showing that the provision prevents the establishment of the most effective and efficient organizational arrangement within the State government; and

(2) approve another State administrative structure or arrangement after deciding that the objectives of the law authorizing the grant program will not be endangered by using another State structure or arrangement.

#### **§ 6505. Authority to provide specialized or technical services**

(a) The President may prescribe statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, docu-

ments, and other similar services that an executive agency is especially competent and authorized by law to provide. The services prescribed must be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels.

(b) The head of an executive agency may provide services prescribed by the President under this section to a State or local government when—

(1) written request is made by the State or local government; and

(2) payment of pay and all other identifiable costs of providing the services is made to the executive agency by the State or local government making the request.

(c) Payment received by an executive agency for providing services under this section shall be deposited to the credit of the principal appropriation from which the cost of providing the services has been paid or will be charged.

(d) The authority under this section is in addition to authority under another law in effect on October 16, 1968.

#### **§ 6506. Development assistance**

(a) The economic and social development of the United States and the achievement of satisfactory levels of living depend on the sound and orderly development of urban and rural areas. When urbanization proceeds rapidly, the sound and orderly development of urban communities depends to a large degree on the social and economic health and the sound development of smaller communities and rural areas.

Regulations.

(b) The President shall prescribe regulations governing the formulation, evaluation, and review of United States Government programs and projects having a significant impact on area and community development (including programs and projects providing assistance to States and localities) to serve most effectively the basic objectives of subsection (a) of this section. The regulations shall provide for the consideration of concurrently achieving the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between the objectives when they conflict:

(1) appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes.

(2) wise development and conservation of all natural resources.

(3) balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other means to move people and goods.

(4) adequate outdoor recreation and open space.

(5) protection of areas of unique natural beauty and historic and scientific interest.

(6) properly planned community facilities (including utilities for supplying power, water, and communications) for safely disposing of wastes, and for other purposes.

(7) concern for high standards of design.

(c) To the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government or assisted by the Government. State and local government objectives and the objectives of regional organizations shall be considered within a frame-

work of national public objectives expressed in laws of the United States. Available projections of future conditions in the United States and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(d) To the maximum extent possible and consistent with national objectives, assistance for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(e) To the maximum extent practicable, each executive agency carrying out a development assistance program shall consult with and seek advice from all other significantly affected executive agencies in an effort to ensure completely coordinated programs. To the extent possible, systematic planning required by individual United States Government programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning.

(f) When a law of the United States provides that both a special-purpose unit of local government and a unit of general local government are eligible to receive a loan or grant, the head of an executive agency shall make the loan or grant to the unit of general local government instead of the special-purpose unit of local government in the absence of substantial reasons to the contrary.

(g) The President may designate an executive agency to prescribe regulations to carry out this section.

#### **§ 6507. Congressional review of grant programs**

(a) The committees of Congress having jurisdiction over a grant program authorized by a law of the United States without a specified expiration date for the program shall study the program. The committees may conduct studies separately or jointly and shall report the results of their findings to their respective Houses of Congress not later than the end of each period specified in subsection (b) of this section. The committees shall give special attention to—

Studies and reports.

(1) the extent to which the purposes of the grants have been met;

(2) the extent to which the objective of the program can be carried on without further assistance;

(3) whether a change in the purpose, direction, or administration of the original program, or in procedures and requirements applicable to the program, should be made; and

(4) the extent to which the program is adequate to meet the growing and changing needs that it was designed to support.

(b)(1) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted before October 16, 1968, shall be conducted before the end of each 4th calendar year after the year during which a study of the program was last conducted under this section.

(2) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted after October 16, 1968, shall be conducted before the end of the 4th calendar year



after the year of enactment of the law and before the end of each 4th calendar year thereafter.

**§ 6508. Studies and reports**

(a)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Comptroller General shall study the program. The study shall include a review of—

(A) the extent to which—

(i) the program conflicts with or duplicates other grant programs; and

(ii) more effective, efficient, economical, and uniform administration of the program may be achieved by changing the requirements and procedures applicable to it; and

(B) budgetary, accounting, reporting, and administrative procedures of the program.

(2) The Comptroller General shall submit to Congress a report on a study made under this subsection and any recommendations. To the extent practicable, a report on an expiring program shall be submitted in the year before the year in which a program ends.

(b)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Advisory Commission on Intergovernmental Relations shall study the intergovernmental relations aspects of the program, including—

(A) the impact of the program on the structural organization of States and local governments and on Federal-State-local fiscal relations; and

(B) the coordination of administration of the program by the United States Government and State and local governments.

(2) The Commission shall submit to the committee requesting the study and to Congress a report and any recommendations.

**CHAPTER 67—REVENUE SHARING**

Sec.

- 6701. Definitions and application.
- 6702. Payments to governments.
- 6703. State and Local Government Fiscal Assistance Trust Fund.
- 6704. Qualifications.
- 6705. State government allocations.
- 6706. Reductions in State government allocations.
- 6707. State allocations for units of general local government.
- 6708. County area and county government allocations.
- 6709. Other local government allocations.
- 6710. Separate law enforcement officer allocations for Louisiana.
- 6711. State variation of local government allocations.
- 6712. Adjustments of local government allocations.
- 6713. Information used in allocation formulas.
- 6714. Public hearings.
- 6715. Prohibition on using payments to influence legislation.
- 6716. Prohibited discrimination.
- 6717. Discrimination proceedings.
- 6718. Suspension and termination of payments in discrimination proceedings.
- 6719. Compliance agreements.
- 6720. Enforcement by the Attorney General of prohibitions on discrimination.
- 6721. Civil action by a person adversely affected.
- 6722. Judicial review.
- 6723. Audits, investigations, and reviews.
- 6724. Reports.

**§ 6701. Definitions and application**

(a) In this chapter—

(1) "entitlement period" means each one-year period beginning on October 1, 1981, and October 1, 1982.

(2) "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 6721(b) of this title, a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of general local government has not complied with section 6716(a) or (b) of this title.

(3) "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this chapter has—

5 USC 3105.

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 6716(b) of this title.

(4) "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(5) "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes;

(B) except under sections 6708(b), 6709, 6711, and 6712(a)(2) and (3) of this title, the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers; and

(C) except under this section and sections 6702, 6703, and 6705-6713(c)(1) of this title, the office of the separate law enforcement officer under section 6710 of this title.

(6) "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(7) "township" includes an equivalent political subdivision having different designations as determined on the same basis used by the Secretary of Commerce for general statistical purposes.

(b) In a State in which a unit of general local government (except a county government) is the next level of government below the State government, the geographic area of the unit of general local government is deemed to be a county area in the State, and the unit of general local government is deemed to be a county government. However, this subsection does not apply to a county area of a State not governed by a county government that has at least 2 units of general local government.

(c) When the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. When only

part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations of the Secretary of the Treasury, the Secretary shall allocate amounts based on the ratio of the estimated population of the part to the population of the unit of general local government.

(d) When a boundary line change, a State statutory or constitutional change, a governmental reorganization, or other circumstance results in the application of subsections (a)(5) and (7), (b), and (c) of this section and sections 6708-6712 of this title in a way that does not carry out the purposes of this section and sections 6702, 6703, and 6705-6713(c)(1) of this title, the Secretary shall apply subsections (a)(5) and (7), (b), and (c) and sections 6708-6712 under regulations of the Secretary in a way that is consistent with those purposes.

(e) In this chapter, the District of Columbia is deemed to be—

(1) a State; and

(2) a county area having one unit of general local government.

#### **§ 6702. Payments to governments**

(a) Each unit of general local government is entitled to an amount equal to any amount allocated to the government under this chapter for each entitlement period. Each State government shall be paid an amount equal to any allocation made for each entitlement period. The Secretary of the Treasury shall pay each amount out of the State and Local Government Fiscal Assistance Trust Fund under section 6703 of this title.

(b) Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this chapter for an entitlement period by the first day of the 3d month before the beginning of the period. The Secretary shall pay each amount under this section in installments. An installment shall be paid at least once a quarter by the 5th day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) The Secretary shall adjust a payment under this chapter to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) The Secretary may reserve a percentage (of not more than 0.5 percent) of the amount under this section for an entitlement period for a State government and all units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

#### **§ 6703. State and Local Government Fiscal Assistance Trust Fund**

(a) The Department of the Treasury has a State and Local Government Fiscal Assistance Trust Fund. The Secretary of the Treasury personally is the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this chapter, may be used only for payments to State governments and units of general local government under this chapter; and

(2) remain available until expended.

(b) The Trust Fund consists of amounts appropriated to the Trust Fund. The following amounts may be appropriated to the Trust Fund:

(1) \$2,300,000,000 for each entitlement period to pay amounts allocated to State governments for that period under section 6705 of this title.

(2) \$4,566,700,000 for each entitlement period to pay entitlement amounts allocated to units of general local government for that period under sections 6708-6710 of this title.

(c) The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this chapter.

#### § 6704. Qualifications

(a) Under regulations of the Secretary of the Treasury, a State government or unit of general local government qualifies for payment under this chapter for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in the regulations of the Secretary;

(3) the government will expend the payments received under laws and procedures applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secretary of Labor shall act on labor standards under this clause in a way that is consistent with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

5 USC app.

(6) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary consults with the Comptroller General);

(7) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to

review compliance and operations under section 6723(b) of this title; and

(8) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 6724(b) of this title.

(b) A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a) of this section.

Notification of  
noncompliance.

(c)(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection (a) of this section or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1) of this subsection, the Secretary shall give the chief executive officer of the State or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

#### **§ 6705. State government allocations**

For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary of the Treasury shall allocate to each State government out of the amount appropriated an amount bearing the same ratio to the amount appropriated as the amount allocated to the State under section 6707 of this title bears to the total amount allocated to States under section 6707. However, the Secretary may pay the amount allocated to the State government only when the Secretary determines (under regulations prescribed by the Secretary) that the State government has declined to receive or has refunded to the United States Government an amount available to the State government under any United States Government categorical grant program identified under the regulations that is equal to the amount allocated. The Secretary shall transfer from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury an amount allocated to a State government but not paid under this section.

#### **§ 6706. Reductions in State government allocations**

(a)(1) Except as provided in this section, the Secretary of the Treasury shall reduce the amount allocated to a State government under section 6705 of this title for an entitlement period by the amount by which—

(A) 50 percent of the total amount the State government transfers from its own sources to units of general local government in the State during the 24-month period ending on the last day of the last fiscal year of the State for which relevant information is available on the first day of the entitlement period to which the allocation applies; is less than

(B) 50 percent of the similar total amount for the 24-month period ending the day before the beginning of the 24-month period described in clause (A) of this paragraph.

(2) In applying this subsection, the amount by which the Secretary reduces an amount allocated to a State government for an entitlement period is, in a later entitlement period, an amount transferred by the State government from its own sources to units of general local government during the period to which the reduction applies.

(b) When a State government satisfies the Secretary that after June 29, 1972, the State government assumed responsibility for a category of expenditures that before July 1, 1972, was the responsibility of local governments in the State, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent that increased State government expenditures from its own sources for the category have replaced corresponding amounts that the State government transferred to units of general local government during the 24-month period under subsection (a)(1)(B).

(c)(1) When a State government satisfies the Secretary that after June 29, 1972, at least one unit of general local government in the State was given new taxing authority, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent of the larger of an amount equal to the—

(A) taxes collected by the units of general local government under the new taxing authority; or

(B) loss of revenue to the State government because of the new taxing authority.

(2) The Secretary may consider under paragraph (1)(A) of this subsection an amount collected because of new taxing authority that is an increase in the tax rate under a previously authorized kind of tax only when the State government has decreased a related State tax.

(d) When the State government satisfies the Secretary that during a part of the 24-month period under subsection (a)(1)(A) of this section the United States Government has assumed responsibility for a category of expenditures for which the State government transferred amounts that (but for this subsection) would be included in the total amount taken into account under subsection (a)(1)(B) of this section, the Secretary shall reduce the total amount under subsection (a)(1)(B) to the extent that increased Government expenditures have replaced corresponding amounts that the State government had transferred to units of general local government during the period under subsection (a)(1)(B).

(e) When the Secretary believes that a reduction of an amount allocated to a State government is required under this section, the Secretary shall give the State government reasonable notice and opportunity for a proceeding. If the Secretary decides that a reduction is required, the Secretary shall—

(1) determine the amount of the reduction;

(2) notify the chief executive officer of the State of the determination; and

(3) withhold the amount of the reduction from payments to the State government under this chapter.

(f) On the day a reduction under this section in an amount allocated to a State government is final, the Secretary shall transfer an amount equal to the reduction from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury.

Regulations.

(g) The Secretary shall prescribe regulations to carry out this section.

#### **§ 6707. State allocations for units of general local government**

(a) For each entitlement period, the Secretary of the Treasury shall allocate to each State out of the amount authorized for the period under section 6703(b)(2) of this title an amount bearing the same ratio to the amount authorized as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

(2) allocate the amount allocated to the State to units of general local government in the State under sections 6708–6710 of this title.

(b)(1) The amount allocated to a State under this subsection for an entitlement period is the amount bearing the same ratio to \$5,300,000,000 as—

(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the State (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under subclause (A) of this paragraph for all States.

(2) The general tax effort factor of a State for an entitlement period is—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; divided by

(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

(3) The relative income factor of a State is a fraction in which—

(A) the numerator is the per capita income of the United States; and

(B) the denominator is the per capita income of the State.

(c) The amount allocated to a State under this subsection for an entitlement period is the amount the State would receive if—

(1) \$1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the population of the State bears to the population of all States;

(2) \$1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated as—

(A) the population of the State, multiplied by a fraction in which—

(i) the numerator is the per capita income of all States; and

(ii) the denominator is the per capita income of the State; bears to

(B) the sum of the products determined under subclause

(A) of this clause (2) for all States;

(3) \$900,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the income tax amount of the State (determined under subsection (d)(1) of this section) bears to the total amount of the income tax amounts of all States;

(4) \$900,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the general tax effort amount of the State (determined under subsection (d)(2) of this section) bears to the total amount of the general tax effort amounts of all States; and

(5) \$1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the urbanized population of the State bears to the urbanized population of all States. In this clause, "urbanized population" means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area by the Secretary of Commerce for general statistical purposes.

"Urbanized population."

(d)(1) The income tax amount of a State for an entitlement period is 15 percent of the net amount collected during the calendar year ending before the beginning of the entitlement period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 164(a)(3)). The income tax amount for an entitlement period shall be at least one percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable years ending during the last calendar year ending before the beginning of the entitlement period. The Secretary of the Treasury shall determine the Government income tax liability attributed to the State on the same basis as the Secretary determines that liability for general statistical purposes.

(2) The general tax effort amount of a State for an entitlement period is the amount determined by multiplying—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; by

(B) the general tax effort factor of the State determined under subsection (b)(2) of this section.

#### § 6708. County area and county government allocations

(a)(1) The Secretary of the Treasury first shall allocate among the county areas in the State the amount allocated to the State for an



entitlement period under section 6707 of this title. Each county area shall receive an amount bearing the same ratio to the amount allocated to the State as—

(A) the population of the county area, multiplied by the general tax effort factor of the county area (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the county area (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under clause (A) of this paragraph for all county areas in the State.

(2) The general tax effort factor of a county area for an entitlement period is—

(A) the amount of the adjusted taxes of the county government and units of general local government in the county area; divided by

(B) the total income attributed to the county area.

(3) The relative income factor of a county area is a fraction in which—

(A) the numerator is the per capita income of the State in which the area is located; and

(B) the denominator is the per capita income of the county area.

(b) The Secretary shall allocate to the county government an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the adjusted taxes of the county government bears to the adjusted taxes of the county government and all other units of general local government in the county area.

(c) When a county area includes an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the population of the tribe or village bears to the population of the county area. The Secretary shall allocate an amount to the tribe or village before allocating an amount to the county government under subsection (b) of this section. The Secretary shall reduce the amount to be allocated to the county government under subsection (b) by an amount allocated under this subsection.

#### § 6709. Other local government allocations

(a)(1) After allocating an amount to a county government under section 6708 of this title, the Secretary of the Treasury shall allocate the amount remaining for allocation in a county area among the units of general local government (except the county government and township governments) in the county area. Each of those units of general local government shall receive an amount bearing the same ratio to the total amount to be allocated to the units of general local government as—

(A) the population of the unit of general local government, multiplied by the general tax effort factor of the unit of general local government (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the unit of general local government (determined under paragraph (4) of this subsection); bears to

Indian tribes and  
Alaskan native  
villages.

(B) the sum of the products determined under clause (A) of this paragraph for all units of the general local government.

(2) The general tax effort factor of a unit of general local government for an entitlement period is—

(A) the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses; divided by

(B) the total income attributed to the unit of general local government.

(3) The Secretary of the Treasury shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under paragraph (2) of this subsection when—

(A) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(B) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this paragraph.

(4) The relative income factor of a unit of general local government is a fraction in which—

(A) the numerator is the per capita income of the county area in which the unit of general local government is located; and

(B) the denominator is the per capita income of the geographic area of the unit of general local government.

(b) When a county area includes at least one township government, the Secretary of the Treasury shall set aside for allocation to township governments in the county area an amount out of the amount allocated to the county area under section 6708(a) of this title bearing the same ratio to the amount allocated to the county area as the total adjusted taxes of all township governments in the county area bears to the total adjusted taxes of the county government, the township governments, and other units of general local government in the county area. The amount for allocation to a township government is set aside before an amount is allocated to a unit of general local government under subsection (a) of this section. The Secretary shall allocate an amount to the township government on the same basis as the Secretary allocates an amount to a unit of general local government under subsection (a). The Secretary shall reduce the amount of the allocation to other units of general local government under subsection (a) by the amount set aside for allocation under this subsection.

(c) When the Secretary of the Treasury decides that information available for a county area for an entitlement period is inadequate in allocating an amount under subsection (a) or (b) of this section for a unit of general local government (except a county government) with a population below a number (of not more than 500) prescribed for the county area by the Secretary, the Secretary may apply subsection (a) or (b) by allocating to the unit of general local government an amount bearing the same ratio to the total amount to be allocated under subsection (a) or (b) for the entitlement period

as the population of the unit of general local government in the county area receiving an amount allocated under subsection (a) or (b). When the Secretary allocates an amount under this subsection, the Secretary shall reduce the total amount to be allocated under subsection (a) or (b) to other units of general local government in the county area for the entitlement period by the amount allocated under this subsection.

**§ 6710. Separate law enforcement officer allocations for Louisiana**

(a) Except as provided in subsection (d) of this section—

(1) the office of the separate law enforcement officer for—

(A) a county area in Louisiana (except the parishes of East Baton Rouge and Orleans) shall receive for each entitlement period an amount equal to 15 percent of the amount the county area government would receive for the period but for this section; and

(B) the parish of East Baton Rouge shall receive for each entitlement period an amount equal to 7.5 percent of the total amount of the amounts the governments of Baton Rouge, Baker, and Zachary, Louisiana, would receive for the period but for this section; and

(2) the parish of Orleans, Louisiana, shall receive for each entitlement period an additional amount equal to 7.5 percent of the amount the parish otherwise would receive.

(b) Except as provided in subsection (d) of this section, the Secretary of the Treasury shall reduce—

(1) the amount allocated to a county area government in Louisiana for an entitlement period by an amount equal to 50 percent of the amount allocated to the office of the separate law officer for the county area for the period; and

(2) in applying clause (1) of this subsection to the parish of East Baton Rouge, the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, for an entitlement period by an amount equal to 3.75 percent of the amount each government would receive for the period but for this subsection.

(c) For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary shall reduce the amount allocated to the Louisiana government under section 6705 of this title by an amount equal to the total reductions under subsection (b) of this section of amounts allocated to county area governments in Louisiana for the period. In this subsection—

(1) reductions in the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, under subsection (b) are deemed reductions in the amounts allocated to county area governments; and

(2) the amount allocated to the parish of Orleans, Louisiana, is deemed to have been reduced by the additional amount received under subsection (a)(2) of this section.

(d) For an entitlement period for which an amount under section 6703(b)(1) of this title is not appropriated—

(1) the percentage under subsection (a)(1)(A) of this section is 13.5 percent;

(2) the percentages under subsections (a)(1)(B) and (b)(2) of this section are 6.75 percent;

(3) the Secretary shall disregard the percentage under subsection (b)(1) of this section; and

(4) subsections (a)(2) and (c) of this section do not apply.

**§ 6711. State variation of local government allocations**

(a) A State government may provide by law for the allocation of amounts among county areas or units of general local government (except county governments) in the State on the basis of population multiplied by the general tax effort factors or relative income factors of the county areas or units of general local government (determined under sections 6708(a) and 6709 (a) and (b) of this title), or a combination of those factors. A State government providing for a variation on an allocation formula provided under section 6708(a) or 6709 (a) or (b) shall notify the Secretary of the Treasury of the variation by the 30th day before the beginning of the first entitlement period in which the variation applies. A variation shall—

(1) provide for allocating the total amount allocated under section 6708(a) or 6709 (a) or (b) of this title;

(2) apply uniformly in the State; and

(3) apply only to entitlement periods beginning before October 1, 1983.

(b) A variation by a State government under this section may apply only when the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only when the Secretary is notified of the variation at least 30 days before the first entitlement period in which the variation applies.

**§ 6712. Adjustments of local government allocations**

(a)(1) Subject to paragraphs (2) and (3) of this subsection, the per capita amount allocated to a county area or unit of general local government (except a county government) in a State for an entitlement period shall be at least 20 percent but not more than 145 percent of the amount allocated to the State under section 6707 of this title, divided by the State population.

(2) The amount allocated to a unit of general local government for an entitlement period may be not more than 50 percent of the amount of the—

(A) adjusted taxes of the unit of general local government; and

(B) transfers (except transfers under this chapter) of revenue to the unit of general local government from another government as a share in financing, or a reimbursement for, the carrying out of governmental duties and powers, as determined by the Secretary of Commerce for general statistical purposes.

(3) When the amount allocated to a unit of general local government (except a county government, an Indian tribe, or an Alaskan native village) for an entitlement period would be less than \$200 but for this paragraph or is waived by the governing authority of the unit of general local government, the Secretary of the Treasury shall add the amount for that period to the amount allocated to the county government in the county area in which the unit of general local government is located, instead of paying the amount allocated to the unit of general local government. The Secretary shall add the amount of allocation waived by a governing body of an Indian tribe or an Alaskan native village to the amount allocated to the county government in the county area in which the tribe or village is located.

(b) When the Secretary makes an adjustment in an amount allocated to a county area or unit of general local government, the Secretary shall make adjustments in the following order:

- (1) under subsection (a)(1) of this section.
- (2) under subsection (a)(2) of this section.
- (3) under subsection (a)(3) of this section.
- (4) under section 6710 of this title.

(c) The Secretary shall adjust the amounts allocated to county areas and units of general local government to bring the amounts into compliance with subsection (a)(1) of this section. The Secretary shall make adjustments in the amounts allocated to county areas before adjusting amounts allocated to units of general local government.

(d)(1) When the Secretary makes a reduction under subsection (a)(2) of this section in the amount allocated to a unit of general local government, the amount of the reduction—

(A) if a unit of general local government (except a county government), shall be added to the amount allocated to the county government in which the unit of general local government is located; and

(B) if a county government, shall be reallocated under subsection (e) of this section.

(2) When a county government may not receive an additional amount under paragraph (1)(A) of this subsection because of subsection (a) of this section, the Secretary shall reallocate the amount of the reduction under subsection (e) of this section.

(e) The Secretary shall reallocate an amount referred to in subsection (d) (1)(B) or (2) of this section—

(1) by adding the amount to the amounts allocated to units of general local government in the State to the extent the units of general local government may receive the additional amount after adjustments under subsection (a) of this section; and

(2) if a unit of general local government may not receive the reallocated amount because of subsection (a) of this section, by allocating the amount among units of general local government in the State on a prorated basis.

#### § 6713. Information used in allocation formulas

(a) Except as provided in this section, the Secretary of the Treasury shall use the most recent available information provided by the Secretary of Commerce to determine an allocation under this chapter. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary of the Treasury may use additional information (including information based on estimates) as provided under regulations of the Secretary of the Treasury.

(b) The Secretary of the Treasury shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes. The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96-369, 94 Stat. 1357).

(c) The Secretary of the Treasury may not—

(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; and

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation.

#### § 6714. Public hearings

(a)(1) A State government or unit of general local government expending payments received under this chapter shall hold at least one public hearing for each fiscal period of the government at which persons are given an opportunity to present written and oral views on the possible uses of the payments. The government shall give adequate notice of the hearing and hold the hearing at least 7 calendar days before presenting its budget to the governmental authority responsible for enacting the budget.

(2) A State government or unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(3) A State government or unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

Senior citizens.

(b)(1) By the 10th day before a hearing required under subsection (a)(2) of this section is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) Under regulations of the Secretary of the Treasury, a requirement—

Waivers.

(1) under subsection (a)(1) of this section may be waived when the cost of the requirement would be unreasonably burdensome in relation to the amount allocated to the State government or unit of general local government to amounts available for payment under this chapter;

(2) under subsection (a)(2) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(A) ensures the opportunity for public attendance and participation contemplated by subsection (a) of this section; and

(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

(3) under subsection (b) (1)(B) and (2)(B) of this section may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government to amounts available for payment under this chapter, or when publication is otherwise impracticable.

(d) When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

**Regulations.**

(e) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

**§ 6715. Prohibition on using payments to influence legislation**

A State government or unit of general local government may not use a part of a payment received under this chapter for activities intended to influence legislation about this chapter. Dues paid by a government to a national or State association are deemed not to have been paid from payments received under this chapter.

**§ 6716. Prohibited discrimination**

(a) No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex when the government receives a payment under this chapter.

(b) The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government when the government receives a payment under this chapter:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c)(1) Subsection (a) and (b) of this section do not apply when the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity.

(2) Subsection (b)(2) of this section does not apply to construction projects begun before January 1, 1977.

(d) The Secretary of the Treasury shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

Noncompliance investigation agreements.

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

### § 6717. Discrimination proceedings

(a) By the 10th day after the Secretary of the Treasury makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

Noncompliance notice.

(b) The State government or unit of general local government may present evidence informally to the Secretary within 30 days after the Secretary submits a notice of noncompliance to the government. Except as provided in subsection (e) of this section, the government may present evidence on whether—

Evidence.

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6716(a) of this title;

(2) the program or activity of the government violated a prohibition described in section 6716(b) of this title; and

(3) a part of that program or activity has been paid for with a payment received under this chapter.

(c) By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 6716 (a) or (b) of this title, except when the government has made a compliance agreement under section 6719 of this title. When the Secretary decides that the government has not complied, the Secretary shall suspend payments to the government under this chapter unless by the 10th day after the decision the government—

(1) makes a compliance agreement under section 6719 of this title; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d)(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State

5 USC 3105.



government or unit of general local government is likely to prevail in showing compliance with section 6716 (a) or (b) of this title.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 6716 (a) or (b) of this title, the judge may order payments to the government under this chapter terminated; or

(B) complied with section 6716 (a) or (b) of this title, a suspension under section 6718(a)(1)(A) of this title shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) In a proceeding under subsections (b)–(d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

#### **§ 6718. Suspension and termination of payments in discrimination proceedings**

(a)(1) The Secretary of the Treasury shall suspend payment under this chapter to a State government or unit of general local government—

5 USC 3105.

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6717(d)(1) of this title that the government is not likely to prevail in showing compliance with section 6716 (a) and (b) of this title;

(B) except as provided in section 6717(d)(2)(B) of this title, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 6716 (a) or (b) of this title, unless the government makes a compliance agreement under section 6719 of this title by the 30th day after the decision; or

(C) when required under section 6717(c) of this title.

(2) Except as provided in section 6717(d)(2) of this title, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding about the holding shall be discontinued.

(c) The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6719(a)(1) of this title; or

(B) a compliance agreement under section 6719(a) of this title;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law

judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6717(a) of this title;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6717(d)(1) of this title), that the government has complied with section 6716 (a) and (b) of this title; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 6716 (a) or (b) of this title.

Restitution.

(e) The Secretary may resume payment to a State government or unit of general local government of payments terminated under section 6717(d)(2) of this title only when the decision resulting in the termination is reversed by an appellate court.

#### **§ 6719. Compliance agreements**

(a) A compliance agreement is an agreement—

(1) approved by the Secretary of the Treasury between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 6716 (a) or (b) of this title; or

(2) between the Secretary and the chief executive officer.

(b) A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 6716 (a) and (b) of this title;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 6716 (a) or (b) of this title; and

(3) may be a series of agreements that dispose of those matters.

(c) The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6721(b) of this title, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 6716 (a) or (b) of this title. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

#### **§ 6720. Enforcement by the Attorney General of prohibitions on discrimination**

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6716 (a) or (b) of this title. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 6716 (a) or (b) of this title, including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

**§ 6721. Civil action by a person adversely affected**

(a) When a State government, a unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6716(d) of this title. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this chapter; or

(2) does not issue a decision on the complaint.

(c) In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6716 (a) or (b) of this title, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) In an action under this section to enforce compliance with section 6716 (a) or (b) of this title, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

**§ 6722. Judicial review**

(a) A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 6704(c) of this title, suspending payments under section 6718(a)(1)(B) of this title, or terminating payments under section 6717(d)(2)(A) of this title, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

28 USC 1254.

#### § 6723. Audits, investigations, and reviews

(a)(1) Except as provided in this section, a State government or unit of general local government expecting to receive a payment under this chapter shall have an independent audit made of the financial statements of the government at least once every 3 years to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than \$25,000 under this chapter. However, an audit of the financial statements of the government for that fiscal year that is required under State or local law is deemed to be compliance with paragraph (1).

(3) An audit of financial statements of a government carried out under another law of the United States for a fiscal year is deemed to be compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

(b)(1) A State government or unit of general local government may elect to waive application of subsection (a)(1) of this section when—

Waiver.

(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

(C) the auditing provisions of the State or local law are applicable to the entitlement period to which the waiver applies.

(2) The election by the government shall include a brief description of the auditing standards used under the State or local law and specify the entitlement period to which the waiver applies.

(c) Under regulations of the Secretary of the Treasury, the Secretary may waive a requirement of subsections (a)(1) and (b) of this section for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year—

Waiver.

(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

(2) have been audited by a State agency that does not follow generally accepted auditing standards or that is not independent, and the State agency shows progress in meeting generally accepted auditing standards or in becoming independent.

(d) A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a State

government or unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

(e) An opinion on an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

(f)(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6721(b) of this title, a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6716 (a) or (b) of this title or other provision of this chapter.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(g) The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this chapter.

#### **§ 6724. Reports**

(a) Before June 2 of each year, the Secretary of the Treasury personally shall report to Congress on—

(1) the status and operation of the State and Local Government Fiscal Assistance Trust Fund during the prior fiscal year; and

(2) the administration of this chapter, including a complete and detailed analysis of—

(A) actions taken to comply with sections 6716–6720 of this title, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this chapter have complied with sections 6704, 6715, and 6723 (a)–(e) and (g) of this title, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6723 (a)–(e) and (g);

(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

(b)(1) At the end of each fiscal year, each State government and each unit of general local government receiving a payment under this chapter shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

Regulations.

## CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

Sec.

6901. Definitions.

6902. Authority and eligibility.

6903. Payments.

6904. Additional payments.

6905. Redwood National Park and the Lake Tahoe Basin.

6906. Authorization of appropriations.

### § 6901. Definitions

In this chapter—

(1) “entitlement land” means land owned by the United States Government—

(A) that is in the National Park System or the National Forest System, including wilderness areas and lands described in section 2 of the Act of June 22, 1948 (16 U.S.C. 577d), and section 1 of the Act of June 22, 1956 (16 U.S.C. 577d-1);

(B) the Secretary of the Interior administers through the Bureau of Land Management;

(C) dedicated to the use of the Government for water resource development projects;

(D) on which are located semi-active or inactive installations (except industrial installations) that the Secretary of the Army keeps for mobilization and for reserve component training;

(E) that is a dredge disposal area under the jurisdiction of the Secretary of the Army;

(F) that is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and acquired after December 23, 1981, by the United States Government to expand the Fort Carson military installation; or

(G) that is a reserve area (as defined in section 401(g)(3) of the Act of June 15, 1935 (16 U.S.C. 715s(g)(3))).

(2) “unit of general local government” means—

(A) a county, city, township, borough existing in Alaska on October 20, 1976, or other political subdivision of a State that the Secretary of the Interior, on the same basis that the Secretary of Commerce uses for general statistical purposes, decides is a general purpose political subdivision of a State;

(B) the Commonwealth of Puerto Rico;

(C) Guam;

- (D) the Commonwealth of the Northern Mariana Islands;  
and  
(E) the Virgin Islands.

#### § 6902. Authority and eligibility

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of acquisition.

(c) A unit of general local government receiving payment for a fiscal year for land under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), or the Act of May 24, 1939 (ch. 144, 53 Stat. 753), may not receive a payment under this chapter for the land for that fiscal year. This chapter does not apply to either Act.

(d) If the total payment to a unit of general local government for a fiscal year would be less than \$100, the Secretary may not make the payment.

#### § 6903. Payments

(a) In this section—

“Payment law.”

(1) “payment law” means—

- (A) the Act of June 20, 1910 (ch. 310, 36 Stat. 557);
- (B) section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);
- (C) the Act of May 23, 1908 (16 U.S.C. 500);
- (D) section 5 of the Act of June 22, 1948 (16 U.S.C. 577g, 577g-1);
- (E) section 401(c)(2) of the Act of June 15, 1935 (16 U.S.C. 715s(c)(2));
- (F) section 17 of the Federal Power Act (16 U.S.C. 810);
- (G) section 35 of the Act of February 25, 1920 (30 U.S.C. 191);
- (H) section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);
- (I) section 3 of the Act of July 31, 1947 (30 U.S.C. 603); and
- (J) section 10 of the Act of June 28, 1934 (known as the Taylor Grazing Act) (43 U.S.C. 315i).

(2) population shall be determined on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

(3) a unit of general local government may not be credited with a population of more than 50,000.

(4) if any part of a smaller unit is located within another unit, entitlement land within both units is deemed to be located within the smaller unit.

(b)(1) A payment under section 6902 of this title is equal to the greater of—

(A) 75 cents for each acre of entitlement land located within a unit of general local government (but not more than the limitation determined under subsection (c) of this section) reduced

for each fiscal year to a unit of general local government collecting and distributing real property taxes (including a unit in Alaska outside the boundaries of an organized borough) in which is located an interest in land that—

(1) the United States Government acquires for—

(A) the National Park System; or

(B) the National Forest Wilderness Areas; and

(2) was subject to local real property taxes within the 5-year period before the interest is acquired.

(b) The Secretary shall make payments only for the 5 fiscal years after the fiscal year in which the interest in land is acquired. Under guidelines the Secretary prescribes, the unit of general local government receiving the payment from the Secretary shall distribute payments proportionally to units and school districts that lost real property taxes because of the acquisition of the interest. A unit receiving a distribution may use a payment for any governmental purpose.

(c) Each yearly payment by the Secretary under this section is equal to one percent of the fair market value of the interest in land on the date the Government acquires the interest. However, a payment may not be more than the amount of real property taxes levied on the property during the last fiscal year before the fiscal year in which the interest is acquired. A decision on fair market value under this section may not include an increase in the value of an interest because the land is rezoned when the rezoning causes the increase after the date of enactment of a law authorizing the acquisition of an interest under subsection (a) of this section.

(d) The Secretary may prescribe regulations under which payments may be made to units of general local government when subsections (a) and (b) of this section will not carry out the purpose of subsections (a) and (b).

#### **§ 6905. Redwood National Park and the Lake Tahoe Basin**

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which an interest in land owned by the United States Government in the Redwood National Park is located. A unit may use the payment for any governmental purpose. The payment shall be made as provided in section 6903 of this title and shall include an amount payable under section 6903.

(b)(1) In addition to payments the Secretary makes under subsection (a) of this section, the Secretary shall make a payment for each fiscal year to each unit of general local government in which is located an interest in land—

(A) owned by the Government in the Redwood National Park;

or

(B) acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (Public Law 96-586, 94 Stat. 3383).

(2) The payment shall be made as provided in section 6904 of this title and shall include an amount payable under section 6904. However, an amount computed but not paid because of the first sentence of subsection (b) and the 2d sentence of subsection (c) of section 6904 shall be carried forward and applied to future years in which the payment would not otherwise equal the amount of real property taxes assessed and levied on the land during the last fiscal year before the fiscal year in which the interest was acquired until the amount is applied completely.



(3) The unit of general local government may use the payment for any governmental purpose.

(4) The Redwoods Community College District is a school district under section 6904(b) of this title.

#### **§ 6906. Authorization of appropriations**

Necessary amounts may be appropriated to the Secretary of the Interior to carry out this chapter. Amounts are available only as provided in appropriation laws.

### **CHAPTER 71—JOINT FUNDING SIMPLIFICATION**

Sec.

- 7101. Purposes.
- 7102. Definitions.
- 7103. Authority of the President and heads of executive agencies.
- 7104. Processing project requests to be financed by at least 2 assistance programs.
- 7105. Prescribing uniform technical and administrative provisions.
- 7106. Delegation of supervision of assistance.
- 7107. Joint management funds.
- 7108. Limitation on authority under sections 7105-7107.
- 7109. Appropriations available for joint financing.
- 7110. Use of joint financing provisions for Federal-State assisted projects.
- 7111. Report to Congress.
- 7112. Expiration date.

#### **§ 7101. Purposes**

The purposes of this chapter are to—

(1) enable States, local governments, and private nonprofit organizations to use assistance of the United States Government more effectively and efficiently;

(2) adapt the assistance more readily to particular needs through wider use of projects that are supported by more than one executive agency, assistance program, or appropriation of the United States Government; and

(3) encourage Federal-State arrangements under which local governments and private nonprofit organizations may more effectively and efficiently combine Federal and State resources to support projects of common interest to those local governments and those organizations.

#### **§ 7102. Definitions**

In this chapter—

(1) “applicant” means a State, local government, or private nonprofit organization applying for assistance for one project.

(2) “assistance program” means a program of the United States Government providing assistance through a grant or contract but does not include revenue sharing, a loan, a loan guarantee, or insurance.

(3) “local government” means a county, city, political subdivision of a county or city, or other general purpose political subdivision of a State, a school district, a council of governments, or other instrumentality of a local government.

(4) “project” means an undertaking that includes components that contribute materially to carrying out one purpose or closely related purposes and are proposed or approved for assistance under—

(A) more than one United States Government program;  
or

(B) at least one Government program and at least one State program.

(5) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a tribe as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

#### **§ 7103. Authority of the President and heads of executive agencies**

##### **Regulations.**

(a) The President shall prescribe necessary regulations to carry out section 7101 of this title and to ensure that this chapter is applied by all executive agencies consistently. The regulations may require executive agencies to adopt or prescribe procedures requiring applicants for assistance for a project to be jointly financed under this chapter to take steps to—

(1) get the views and recommendations of States and local governments that may be significantly affected by the project; and

(2) resolve questions of common interest to those States and local governments before making application.

(b) Subject to regulations prescribed under subsection (a) of this section and other law, the head of an executive agency may do the following by an order of the agency head or by agreement with another executive agency:

(1) identify related programs likely to be particularly suitable in providing joint financing for specific kinds of projects.

(2) to assist in planning and developing a project financed from different programs, develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance.

(3) review administrative program requirements to identify requirements that may impede joint financing of a project and modify the requirements when appropriate.

(4) establish common technical or administrative regulations for related programs to assist in providing joint financing to support a specific project or class of projects.

(5) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) a lead agency responsible for processing applications; and

(B) a managing agency responsible for project supervision.

(c) The head of an executive agency shall—

(1) take maximum action to carry out section 7101 of this title in conducting an assistance program of the agency; and

(2) consult and cooperate with the heads of other executive agencies to carry out section 7101 of this title in conducting assistance programs of different executive agencies that may be used jointly to finance projects undertaken by States, local governments, or private nonprofit organizations.

**§ 7104. Processing project requests to be financed by at least 2 assistance programs**

In processing an application or request for assistance for a project to be financed by at least 2 assistance programs, the head of an executive agency shall take action that will ensure that—

- (1) required reviews and approvals are handled expeditiously;
- (2) complete account is taken of special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly financed project;
- (3) an applicant is required to deal with a minimum number of representatives of the United States Government;
- (4) an applicant is promptly informed of a decision or special problem that could affect the feasibility of providing joint assistance under the application; and
- (5) an applicant is not required to get information or assurances from one executive agency for a requesting executive agency when the requesting agency may get the information or assurances directly.

**§ 7105. Prescribing uniform technical and administrative provisions**

(a) To make participation in a project easier than would be possible because of varying or conflicting technical or administrative regulations and procedures not required by law, the head of an executive agency may prescribe uniform provisions about inconsistent or conflicting requirements on—

- (1) financial administration of the project (including accounting, reporting and auditing, and maintaining a separate bank account), to the extent consistent with section 7108 of this title;
- (2) the timing of payments by the United States Government for the project when one schedule or a combined schedule is to be established for the project;
- (3) providing assistance by grant rather than procurement contract or by procurement contract rather than by grant; and
- (4) accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Government when common regulations are established for the project.

(b) To make easier the processing of applications for assistance, the head of an executive agency may provide for review of proposals for a project by one panel, board, or committee where reviews by separate panels, boards, or committees are not specifically required by law.

(c) Notwithstanding a requirement that one public agency or a specific public agency be established or designated to carry out or supervise that part of the assistance from the Government under an assistance program for a jointly financed project, the head of the executive agency carrying out the program may waive the requirement when—

- (1) administration by another public agency is consistent with State or local law and the objectives of the assistance program; and
- (2)(A) the waiver is requested by the head of a unit of general government certifying jurisdiction over the public agencies concerned; or

Waiver.

(B) the State or local public agencies concerned agree to the waiver.

#### § 7106. Delegation of supervision of assistance

With the approval of the President, the head of an executive agency may delegate or otherwise arrange to have another executive agency carry out or supervise a project or class of projects jointly financed under this chapter. A delegation—

(1) shall be made under conditions ensuring that duties and powers delegated are exercised consistent with law; and

(2) may not relieve the head of an executive agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

#### § 7107. Joint management funds

(a) In supporting a project, a joint management fund may be established to administer more effectively amounts received from more than one assistance program or appropriation. A proportional share of the amount required to pay a grantee shall be transferred periodically to the fund from each program or appropriation. When a project is completed, the grantee shall return to the fund an amount not expended.

(b) An account in a joint management fund is subject to an agreement made by the heads of the executive agencies providing assistance for the project about the responsibilities of each agency. An agreement shall—

(1) ensure the availability of necessary information to the executive agencies and Congress;

(2) provide that the agency administering a fund is responsible and accountable by program and appropriation for the amounts provided for the purposes of each account in the fund; and

(3) include procedures for returning, subject to fiscal year limitations, an excess amount to participating executive agencies under the applicable appropriation. An excess amount of an expired appropriation lapses from the fund.

Recordkeeping.

(c) For each project financed through an account in a joint management fund, a recipient of an amount from the fund shall keep records prescribed by the head of the executive agency responsible for administering the fund. The records shall include—

(1) the amount and disposition by the recipient of assistance received under each program and appropriation;

(2) the total cost of the project for which assistance was given or used;

(3) that part of the cost of the project provided from other sources; and

Audit.

(4) other records that will make it easier to carry out an audit.

(d) Records of a recipient related to an amount received from a joint management fund shall be made available to the head of the executive agency responsible for administering the fund and the Comptroller General for inspection and audit.

(e) For a project subject to a joint management fund, one non-Government share may be established conforming to—

(1) the proportional shares applicable to the assistance programs involved; and

(2) the proportional shares of an amount transferred to the project account from each of the programs.

**§ 7108. Limitation on authority under sections 7105-7107**

Under regulations prescribed by the President, the head of an executive agency may act under sections 7105-7107 of this title for a project assisted under at least 2 assistance programs. The regulations shall ensure that the head of an executive agency acts under those sections only—

- (1) when a problem cannot be adequately solved through other action under this chapter or other law;
- (2) when necessary to promote expeditious processing of applications or effective and efficient administration of the project; and
- (3) in a way consistent with protecting the interest of the United States Government and with the program purposes and requirements of law.

**§ 7109. Appropriations available for joint financing**

An appropriation available for technical assistance or personnel training under an assistance program is available for technical assistance and training for a project proposed or approved for joint financing involving the program and another assistance program.

**§ 7110. Use of joint financing provisions for Federal-State assisted projects**

Under regulations prescribed by the President, the head of an executive agency may make an agreement with a State to extend the benefits of this chapter to a project involving assistance from at least one executive agency and at least one State agency. The agreement may include arrangements to process requests or administer assistance on a joint basis.

**§ 7111. Report to Congress**

By February 3, 1984, the President shall submit to Congress a report on actions taken under this chapter and make recommendations for its continuation, amendment, or termination. The report shall include a detailed evaluation of the operation of the chapter, including information on the benefits and costs of jointly financed projects that accrue to participating States, local governments, private nonprofit organizations, and the United States Government.

**§ 7112. Expiration date**

This chapter expires on February 3, 1985.

**CHAPTER 73—ADMINISTERING BLOCK GRANTS**

Sec.

7301. Purpose.

7302. Definitions.

7303. Reports and public hearings on proposed uses of amounts.

7304. Availability of records.

7305. State auditing requirements.

**§ 7301. Purpose**

It is the purpose of this chapter to ensure that—

- (1) block grant amounts are allocated for programs of special importance to meet the needs of local governments, residents of local governments, and other eligible entities; and

(2) all eligible local governments, residents of local governments, and other eligible entities are treated fairly in distributing block grant amounts.

#### **§ 7302. Definitions**

In this chapter—

(1) “block grant amounts” means amounts received for a program that—

(A) directly allocates amounts to States only, except for amounts allocated for use by the agency administering the program; and

(B) provides that the State may use any part of the amounts at its discretion to continue to support activities financed on August 12, 1981, under programs whose authorizations were discontinued by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) and that were financed on August 12, 1981, by allocations by the United States Government to local governments or other eligible entities, or both local governments and other eligible entities.

(2) “State” includes the District of Columbia and territories and possessions of the United States.

#### **§ 7303. Reports and public hearings on proposed uses of amounts**

(a)(1) The chief executive officer of each State shall prepare for each fiscal year a report on the proposed use during the fiscal year of block grant amounts received by the State. The report shall include—

(A) a statement of goals and objectives;

(B) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served; and

(C) the criteria for, and way of, distributing the amounts, including details on the way amounts will be distributed on the basis of need to carry out the purposes of the block grant amounts.

Effective date.

(2) Beginning with the fiscal year ending September 30, 1983, each report shall describe how the State met the goals, objectives, and needs in using the amounts described in the report for the prior fiscal year.

(b) A State may not receive block grant amounts for a fiscal year until the State conducts a public hearing, after adequate public notice, on the proposed use and distribution of the amounts set out in the report prepared under subsection (a) of this section for the fiscal year.

Information disclosure.

(c) Each report prepared under subsection (a) of this section and changes to the report shall be made public in the State on a timely basis and in a way that encourages comments from interested local government and persons.

#### **§ 7304. Availability of records**

To evaluate and review the use of block grant amounts, consolidated assistance, and other grant programs established or provided for in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357), records related to the amounts, assistance, or programs that are in the possession, custody, or control of a State, a political subdivision of a State, or a grantee of a State or political

subdivision of a State shall be made available to the Comptroller General.

### § 7305. State auditing requirements

(a) The chief executive officer of each State shall conduct financial and compliance audits of block grant amounts received under the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) and amounts received under a consolidated assistance program established or provided for in the Act. An audit shall be conducted for the 2-year period beginning on October 1, 1981, and for each 2-year period thereafter. As far as practicable, the audit shall be conducted consistent with standards the Comptroller General prescribes for the audit of governmental entities, programs, activities, and functions.

(b) An audit under subsection (a) of this section is in place of other financial and compliance audits of those amounts that the chief executive officer of the State is required to conduct under another provision of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) unless the other provision, by explicit reference to this section, provides otherwise.

## SUBTITLE VI—MISCELLANEOUS

CHAPTER	Sec.
91. GOVERNMENT CORPORATIONS.....	9101
93. SURETIES AND SURETY BONDS.....	9301
95. GOVERNMENT PENSION PLAN PROTECTION.....	9501
97. MISCELLANEOUS.....	9701

### CHAPTER 91—GOVERNMENT CORPORATIONS

Sec.	
9101.	Definitions.
9102.	Establishing and acquiring corporations.
9103.	Budgets of wholly owned Government corporations.
9104.	Congressional action on budgets of wholly owned Government corporations.
9105.	Audits.
9106.	Audit reports.
9107.	Accounts.
9108.	Obligations.
9109.	Exclusion of a wholly owned Government corporation from this chapter.

#### § 9101. Definitions

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) "mixed-ownership Government corporation" means—

- (A) Amtrak.
- (B) the Central Bank for Cooperatives.
- (C) the Federal Deposit Insurance Corporation.
- (D) the Federal Home Loan Banks.
- (E) the Federal Intermediate Credit Banks.
- (F) the Federal Land Banks.
- (G) the National Credit Union Administration Central Liquidity Facility.
- (H) the Regional Banks for Cooperatives.
- (I) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section

410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

- (J) the United States Railway Association.
- (K) the National Consumer Cooperative Bank.
- (3) "wholly owned Government corporation" means—
  - (A) the Commodity Credit Corporation.
  - (B) the Export-Import Bank of the United States.
  - (C) the Federal Crop Insurance Corporation.
  - (D) Federal Prison Industries, Incorporated.
  - (E) the Federal Savings and Loan Insurance Corporation.
  - (F) the Government National Mortgage Association.
  - (G) the Overseas Private Investment Corporation.
  - (H) the Pennsylvania Avenue Development Corporation.
  - (I) the Pension Benefit Guaranty Corporation.
  - (J) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).
  - (K) the Saint Lawrence Seaway Development Corporation.
  - (L) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.
  - (M) the Tennessee Valley Authority.

#### **§ 9102. Establishing and acquiring corporations**

An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

#### **§ 9103. Budgets of wholly owned Government corporations**

(a) Each wholly owned Government corporation shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President prescribes by regulation for the budget program.

(b) The budget program for each wholly owned Government corporation shall—

(1) contain estimates of the financial condition and operations of the corporation for the current and following fiscal years and the condition and results of operations in the last fiscal year;

(2) contain statements of financial condition, income and expense, and sources and use of money, an analysis of surplus or deficit, and additional statements and information to make known the financial condition and operations of the corporation, including estimates of operations by major activities, administrative expenses, borrowings, the amount of United States Government capital that will be returned to the Treasury during the fiscal year, and appropriations needed to restore capital impairments; and

(3) provide for emergencies and contingencies and otherwise be flexible so that the corporation may carry out its activities.

(c) The President shall submit the budget programs submitted by wholly owned Government corporations (as changed by the President) as part of the budget submitted to Congress under section 1105 of this title. The President thereafter may submit changes in a budget program of a corporation at any time.



**§ 9104. Congressional action on budgets of wholly owned Government corporations****(a) Congress shall—**

- (1) consider budget programs for wholly owned Government corporations the President submits;
- (2) make necessary appropriations authorized by law;
- (3) make corporate financial resources available for operating and administrative expenses; and
- (4) provide for repaying capital and the payment of dividends.

**(b) This section does not—**

- (1) prevent a wholly owned Government corporation from carrying out or financing its activities as authorized under another law;
- (2) affect section 26 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831y); or
- (3) affect the authority of a wholly owned Government corporation to make a commitment without fiscal year limitation.

**§ 9105. Audits****(a)(1) Under regulations of the Comptroller General, the Comptroller General shall audit financial transactions of—**

- (A) wholly owned Government corporations; and
- (B) mixed-ownership Government corporations during periods in which capital of the United States Government is invested in a mixed-ownership Government corporation.

(2) The Comptroller General shall audit each Government corporation at least once every 3 years. The Comptroller General shall audit the Federal Savings and Loan Insurance Corporation and Federal home loan banks on a calendar year basis.

**(b) In conducting an audit under subsection (a) of this section, the Comptroller General—**

- (1) to the greatest extent the Comptroller General considers practicable, shall use reports of examinations of a Government corporation that a supervising administrative agency makes; and

(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), may make a contract for professional services with a firm or organization for a temporary period or special purpose.

(c) An audit under subsection (a) of this section shall be conducted consistent with principles and procedures applicable to commercial corporate transactions where the accounts of a Government corporation usually are kept. A Government corporation shall—

- (1) make available to the Comptroller General for audit all records and property of, or used by, the corporation that are necessary for the audit; and

(2) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, or custodians.

(d) Regulations prescribed under subsection (a) of this section may provide that any part of an account of an accountable official about a financial transaction of a wholly owned Government corporation sent to the Comptroller General for settlement may be kept at the office of the corporation and that the Comptroller General may settle any part of the account on the basis of an examination during an audit. This subsection does not affect the authority of the Tennes-

Contract  
authority.

see Valley Authority under section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)).

(e) The Comptroller General shall pay the cost of an audit under this section. A Government corporation shall reimburse the Comptroller General for the cost of the audit as determined by the Comptroller General. The Comptroller General shall deposit the reimbursement in the Treasury as miscellaneous receipts. Except as expressly provided by law, a Government corporation may not pay the cost of a private audit of the financial records of the corporation.

(f) An audit under subsection (a) of this section is in place of an audit of the financial transactions of a Government corporation the Comptroller General is required to make in reporting to Congress or the President under another law.

(g) Necessary amounts are authorized to be appropriated to the Comptroller General to carry out this section.

#### § 9106. Audit reports

(a) The Comptroller General shall submit to Congress a report on each audit of a Government corporation under section 9105 of this title not later than 6.5 months after the end of the last year covered by the audit. The report shall state the scope of the audit and include—

(1) a statement (showing intercorporate relations) of assets, liabilities, capital, and surplus or deficit;

(2) a statement of surplus or deficit analysis;

(3) a statement of income and expenditures;

(4) a statement of sources and the use of money;

(5) specifically each financial transaction or undertaking the Comptroller General believes was carried out or made without authority of law;

(6) comments and information the Comptroller General considers necessary to keep Congress informed about the operations and financial condition of the Government corporation, including a statement of impaired capital noticed and recommendations for the return of capital of the United States Government or the payment of dividends the Comptroller General believes should be made; and

(7) other recommendations the Comptroller General considers advisable.

(b) The Comptroller General shall give the President, the Secretary of the Treasury, and the Government corporation a copy of the report when it is submitted to Congress.

#### § 9107. Accounts

(a) With the approval of the Comptroller General, a Government corporation may consolidate its cash into an account if the cash will be expended as provided by law.

(b) The Secretary of the Treasury shall keep the accounts of a Government corporation. If the Secretary approves, a Federal reserve bank or a bank designated as a depository or fiscal agent of the United States Government may keep the accounts. The Secretary may waive the requirements of this subsection.

(c)(1) Subsection (b) of this section does not apply to maintaining a temporary account of not more than \$50,000 in one bank.

(2) Subsection (b) of this section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(3) Subsection (b) of this section does not apply to the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, or the Federal Land Banks. However, the head of each of those banks shall report each year to the Secretary the names of depositories where accounts are kept. If the Secretary considers it advisable when an annual report is received, the Secretary may make a written report to the corporation, the President, and Congress.

#### § 9108. Obligations

(a) Before a Government corporation issues obligations and offers obligations to the public, the Secretary of the Treasury shall prescribe—

- (1) the form, denomination, maturity, interest rate, and conditions to which the obligations will be subject;
- (2) the way and time the obligations are issued; and
- (3) the price for which the obligations will be sold.

(b) A Government corporation may buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than \$100,000 only when the Secretary approves the purchase or sale. The Secretary may waive the requirement of this subsection under conditions the Secretary may decide.

Waiver.

(c) The Secretary may designate an officer or employee of an agency to carry out this section if the head of the agency agrees.

(d)(1) This section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(2) Subsections (a) and (b) of this section do not apply to the Rural Telephone Bank (when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))), the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, and the Federal Land Banks. However, the head of each of those banks shall consult with the Secretary before taking action of the kind described in subsection (a) or (b). If agreement is not reached, the Secretary may make a written report to the corporation, the President, and Congress on the reasons for the Secretary's disagreement.

#### § 9109. Exclusion of a wholly owned Government corporation from this chapter

When the President considers it practicable and in the public interest, the President shall include in the budget submitted to Congress under section 1105 of this title a recommendation that a wholly owned Government corporation be deemed to be an agency (except a corporation) under chapter 11 of this title and for fiscal matters. If Congress approves the recommendation, the corporation is deemed to be an agency (except a corporation) under chapter 11 and for fiscal matters for fiscal years beginning after the fiscal year of approval and is not subject to this chapter. The corporate entity is not affected by this section.

*Ante*, p. 907.

**CHAPTER 93—SURETIES AND SURETY BONDS**

- Sec.  
9301. Definitions.  
9302. Prohibition against surety bonds for United States Government personnel.  
9303. Use of Government obligations instead of surety bonds.  
9304. Surety corporations.  
9305. Authority and revocation of authority of surety corporations.  
9306. Surety corporations acting outside area of incorporation and place of principal office.  
9307. Civil actions and judgments against surety corporations.  
9308. Civil penalty.  
9309. Priority of sureties.

**§ 9301. Definitions**

In this chapter—

- (1) “person” means an individual, a trust, an estate, a partnership, and a corporation.
- (2) “Government obligation” means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.

**§ 9302. Prohibition against surety bonds for United States Government personnel**

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

**§ 9303. Use of Government obligations instead of surety bonds**

(a) If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond. The obligation shall—

- (1) be given to the official having authority to approve the surety bond;
  - (2) be in an amount equal at par value to the amount of the required surety bond; and
  - (3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.
- (b)(1) An official receiving a Government obligation under subsection (a) of this section may deposit it with—
- (A) the Secretary of the Treasury;
  - (B) a Federal reserve bank; or
  - (C) a depository designated by the Secretary.

(2) The Secretary, bank, or depository shall issue a receipt that describes the obligation deposited.

(c) Using a Government obligation instead of a surety bond for security is the same as using—

- (1) a personal or corporate surety bond;
- (2) a certified check;
- (3) a bank draft;
- (4) a post office money order; or
- (5) cash.

(d) When security is no longer required, a Government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contrac-

tor defaulting under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d), files with the United States Government the application and affidavit provided under section 3 of the Act (40 U.S.C. 270c), the Government—

(1) may return to the contractor the Government obligation given as security (or proceeds of the Government obligation given) under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d), only after the 90-day period for bringing a civil action under section 2 of the Act (40 U.S.C. 270b); and

(2) if a civil action is brought in the 90-day period, shall hold the Government obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against a Government obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d); or

(B) this section;

(3) authority of a court over a Government obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive a Government obligation as security.

(f) To avoid frequent substitution of Government obligations, the Secretary may prescribe regulations limiting the effect of this section to a Government obligation maturing more than one year after the date the obligation is given as security.

#### § 9304. Surety corporations

(a) When a law of the United States Government requires or permits a person to give a surety bond through a surety, the person satisfies the law if the surety bond is provided for the person by a corporation—

(1) incorporated under the laws of—

(A) the United States; or

(B) a State, the District of Columbia, or a territory or possession of the United States;

(2) that may under those laws guarantee—

(A) the fidelity of persons holding positions of trust; and

(B) bonds and undertakings in judicial proceedings; and

(3) complying with sections 9305 and 9306 of this title.

(b) Each surety bond shall be approved by the official of the Government required to approve or accept the bond. The official may not require that the surety bond be given through a guaranty corporation or through any particular guaranty corporation.

#### § 9305. Authority and revocation of authority of surety corporations

(a) Before becoming a surety under section 9304 of this title, a surety corporation must file with the Secretary of the Treasury—

(1) a copy of the articles of incorporation of the corporation; and

(2) a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(b) The Secretary may authorize in writing a surety corporation to provide surety bonds under section 9304 of this title if the Secretary decides that—

(1) the articles of incorporation of the corporation authorize the corporation to do business described in section 9304(a)(2) of this title;

(2) the corporation has paid-up capital of at least \$250,000 in cash or its equivalent; and

(3) the corporation is able to carry out its contracts.

(c) A surety corporation authorized under subsection (b) of this section to provide surety bonds shall file with the Secretary each January, April, July, and October a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(d) The Secretary—

(1) shall revoke the authority of a surety corporation to do new business if the Secretary decides the corporation is insolvent or is in violation of this section or section 9304 or 9306 of this title;

(2) may investigate the solvency of a surety corporation at any time; and

(3) may require additional security from the person required to provide a surety bond if the Secretary decides that a surety corporation no longer is sufficient security.

(e) A surety corporation providing a surety bond under section 9304 of this title may not provide any additional bond under that section if—

(1) the corporation does not pay a final judgment or order against it on the bond; and

(2) no appeal or stay of the judgment or order is pending 30 days after the judgment or order is entered.

#### **§ 9306. Surety corporations acting outside area of incorporation and place of principal office**

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

(1) may appear for the surety corporation;

(2) may receive service of process for the corporation;

(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits.

(b) The surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in

which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

#### **§ 9307. Civil actions and judgments against surety corporations**

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304-9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;

(C) in which the surety bond is filed; and

(D) in which the person required to provide a surety bond resided when the bond was provided.

(b) In a proceeding against a surety corporation providing a surety bond under section 9304 of this title, the corporation may not deny its power to provide a surety bond or to assume liability.

#### **§ 9308. Civil penalty**

A surety corporation is liable to the United States Government for a civil penalty of at least \$500 but not more than \$5,000 for violating section 9304, 9305, or 9306 of this title. A civil action under this section may be brought in a judicial district in which a civil action may be brought against the corporation under section 9307 of this title. A penalty imposed under this section does not affect the validity of a contract made by the surety corporation.

#### **§ 9309. Priority of sureties**

When a person required to provide a surety bond given to the United States Government is insolvent or dies having assets insufficient to pay debts, the surety, or the executor, administrator, or assignee of the surety paying the Government the amount due under the bond—

(1) has the same priority to amounts from the assets and estate of the person as are secured for the Government; and

(2) personally may bring a civil action under the bond to recover amounts paid under the bond.

### **CHAPTER 95—GOVERNMENT PENSION PLAN PROTECTION**

Sec.

9501. Purpose.

9502. Definitions.

9503. Reports about Government pension plans.

9504. Review and recommendations.

**§ 9501. Purpose**

The purpose of this chapter is to protect the interests of the United States and of the participants and their beneficiaries in Government pension plans by requiring complete disclosure of the financial condition of those plans.

**§ 9502. Definitions**

In this chapter—

(1) “Government pension plan”—

(A) means a pension, annuity, retirement, or similar plan (except a plan covered under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or a plan or program financed by contributions required under chapter 21 or 22 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq., 3201 et seq.)) established or maintained by an agency, for any of its officers or employees, regardless of the number of participants covered by the plan; and

(B) includes—

- (i) the Civil Service Retirement System.
- (ii) the Coast Guard Retirement System.
- (iii) the Commissioned Corps of the Public Health Service Retirement System.
- (iv) the Farm Credit District Retirement Plans.
- (v) the Federal Home Loan Bank Board Retirement Systems.
- (vi) the Federal Home Loan Mortgage Corporation Plan.
- (vii) the Federal Reserve Employees Retirement Plans.
- (viii) the Foreign Service Retirement and Disability System.
- (ix) judicial plans.
- (x) the Military Retirement System.
- (xi) the National Oceanic and Atmospheric Administration Retirement System.
- (xii) nonappropriated fund plans.
- (xiii) the Tennessee Valley Authority Retirement System.

(2) “plan year” means the calendar, policy, or fiscal year chosen by the Government pension plan on which the records of the plan are kept.

**§ 9503. Reports about Government pension plans**

(a) A Government pension plan is subject to section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) in the same way that an employee pension benefit plan is subject to section 103. However, section 103 applies to a Government pension plan for officers or employees of the Central Intelligence Agency only if the President specifically approves application of the requirements of section 103 in writing. In applying section 103 to a Government pension plan—

(1) the annual report shall be—

(A) in the form and include information the President, in consultation with the Comptroller General, prescribes or, if the pension plan is referred to in section 9502(1)(B) (iv)–(vii) or (ix) of this title, the Comptroller General prescribes; and



(B) submitted to Congress and to the Comptroller General by the end of the 210-day period beginning on the day after the last day of the plan year involved;

(2) a provision providing for waiver of, relief from, or exception to a requirement otherwise applicable to an employee pension benefit plan applies to a Government pension plan only if specifically authorized by the Comptroller General; Waiver.

(3) section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)) does not apply;

(4) the report required by this chapter is in addition to other reports or projections required by law; and

(5) except for a Government pension plan referred to in section 9502(1)(B)(iv)–(vii) of this title, the Comptroller General shall conduct audits when appropriate instead of complying with the requirements for the independent qualified public accountant. Audits.

(b) This chapter does not prevent a Government pension plan from using the services of an enrolled actuary employed by an agency administering the plan.

#### **§ 9504. Review and recommendations**

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

(1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and

(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

### **CHAPTER 97—MISCELLANEOUS**

Sec.

9701. Fees and charges for Government services and things of value.

9702. Investment of trust funds.

#### **§ 9701. Fees and charges for Government services and things of value**

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

(c) This section does not affect a law of the United States—

- (1) prohibiting the determination and collection of charges and the disposition of those charges; and
- (2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

#### **§ 9702. Investment of trust funds**

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

- (1) shall be invested in Government obligations; and
- (2) shall earn interest at an annual rate of at least 5 percent.

#### **CONFORMING PROVISIONS**

**SEC. 2.** (a) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

“Additional officers, Office of Management and Budget (6).”.

(b) Title 10, United States Code, is amended as follows:

(1)(A) In sections 1479(2), 2206, 4592, and 9592, strike out “officer” and substitute “official”.

(B) In section 2309(b), strike out “disbursing officer” and substitute “disbursing official”.

(2)(A) Add immediately below item 1041 in the analysis of chapter 53 the following new item:

“1042. Copy of certificate of service.”.

(B) Add at the end of chapter 53 the following new section:

10 USC 1042.

#### **“§ 1042. Copy of certificate of service**

“A fee for a copy of a certificate showing service in the armed forces may not be charged to—

“(1) a person discharged or released from the armed forces honorably or under honorable conditions;

“(2) the next of kin of the person; or

“(3) a legal representative of the person.”.

(3)(A) Add immediately below item 2360 in the analysis of chapter 139 the following new item:

“2361. Availability of appropriations.”.

(B) Add at the end of chapter 139 the following new section:

10 USC 2361.

#### **“§ 2361. Availability of appropriations**

“Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years.”.

(4)(A) Add immediately below item 2393 in the analysis of chapter 141 the following new items:

“2394. Availability of appropriations for military equipment and supplies and construction of military public works.

“2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries.”.

(B) Add at the end of chapter 141 the following new sections:

**“§ 2394. Availability of appropriations for procurement of technical military equipment and supplies and construction of military public works** 10 USC 2394.

“Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies and the construction of military public works remain available until spent.

**“§ 2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries** 10 USC 2395.

“(a) An advance under an appropriation to the Department of Defense may be made to pay for—

“(1) compliance with laws and ministerial regulations of a foreign country;

“(2) rent in a foreign country for periods of time determined by local custom; and

“(3) tuition.

“(b)(1) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, an officer of an armed force of the United States accountable for public money may advance amounts to a disbursing official of a friendly foreign country or members of an armed force of a friendly foreign country for—

“(A) pay and allowances to members of the armed force of that country; and

“(B) necessary supplies and services.

“(2) An advance may be made under this subsection only if the President has made an agreement with the foreign country—

“(A) requiring reimbursement to the United States for amounts advanced;

“(B) requiring the appropriate authority of the country to advance amounts reciprocally to members of the armed forces of the United States; and

“(C) containing another provision the President considers necessary to carry out this subsection and to safeguard the interests of the United States.”.

(5)(A) Add immediately below item 2635 in the analysis of chapter 157 the following new item:

“2636. Deductions from carriers because of loss or damage to material in transit.”.

(B) Add at the end of chapter 157 the following new section:

**“§ 2636. Deductions from carriers because of loss or damage to material in transit** 10 USC 2636.

“An amount deducted from an amount due a carrier because of loss of or damage to material in transit for a military department shall be credited to the proper appropriation, account, or fund from which the same or similar material may be replaced.”.

(6)(A) Insert between items 2661 and 2662 in the analysis of chapter 159 the following new item:

“2661a. Appropriations for advance planning of military public works.”.

(B) Insert between sections 2661 and 2662 the following new section:

10 USC 2661a. **“§ 2661a. Appropriations for advance planning of military public works**

“(a) There are authorized to be appropriated to the Department of Defense, to remain available until spent, funds for advance planning, construction design, and architectural services for—

“(1) military public works projects not otherwise authorized; and

“(2) construction management of projects funded by governments of foreign countries directly or through international organizations for which the armed forces of the United States are the sole or primary user.

“(b) The Secretary of Defense may not enter into a transaction for a military public works project for which estimated advance planning, construction design, and architectural services costs of at least \$225,000 will be funded under this section until after the expiration of 30 days from the date on which a report of the project and the estimated costs is submitted to the Committees on Armed Services of the Senate and the House of Representatives.”.

(7)(A) Amend item 2773 in the analysis of chapter 165 to read as follows:

“2773. Designation, powers, and accountability of deputy disbursing officials.”.

10 USC 2773.

(B) Amend section 2773 to read as follows:

**“§ 2773. Designation, powers, and accountability of deputy disbursing officials**

“(a)(1) With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department may designate a deputy disbursing official—

“(A) to make payments as the agent of the disbursing official;

“(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

“(C) to carry out other duties required under law.

“(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

“(b)(1) If a disbursing official of any military department dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the 2d month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

“(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.”.

(8)(A) Add immediately below item 2775 in the analysis of chapter 165 the following new items:

“2776. Use of receipts of public money for current expenditures.

“2777. Requisitions for advances and removal of charges outstanding in accounts of advances.

“2778. Accounts of the military departments.

"2779. Use of funds because of fluctuations in currency exchange rates of foreign countries."

(B) Add at the end of chapter 165 the following new sections:

**"§ 2776. Use of receipts of public money for current expenditures** 10 USC 2776.

"Without deposit to the credit of the Secretary of the Treasury and without withdrawal on money requisitions, a disbursing official of the Department of Defense may use receipts of public money charged in the disbursing official's accounts (except receipts to be credited to river, harbor, and flood control appropriations) for current expenditures, with necessary bookkeeping adjustments being made.

**"§ 2777. Requisitions for advances and removal of charges outstanding in accounts of advances** 10 USC 2777.

"(a) The Secretary of a military department may issue to a disbursing official or agent of the department a requisition for an advance of not more than the total appropriation for the department. The amount advanced shall be—

"(1) under an 'account of advances' for the department;

"(2) on a proper voucher;

"(3) only for obligations payable under specific appropriations;

"(4) charged to, and within the limits of, each specific appropriation; and

"(5) returned to the account of advances.

"(b) A charge outstanding in an account of advances of a military department shall be removed by crediting the account of advances of the department and deducting the amount of the charge from an appropriation made available for advances to the department when—

"(1) relief has been granted or may be granted later to a disbursing official or agent of the department operating under an account of advances and under a law having no provision for removing charges outstanding in an account of advances; or

"(2) the charge has been—

"(A) outstanding in the account of advances of the department for 2 complete fiscal years; and

"(B) certified by the head of the department to the Comptroller General as uncollectable.

"(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.

**"§ 2778. Accounts of the military departments** 10 USC 2778.

"The Comptroller General shall—

"(1) maintain all accounts of—

"(A) receipts and expenditures of public money in the military departments; and

"(B) debts due the United States on moneys advanced for the department;

"(2) preserve settled accounts, vouchers, and certificates;

"(3) record all requisitions drawn by the Secretary of the department;

"(4) each year on the first Monday in November, report to the Secretary of the Treasury on the application of money appropriated for the military departments; and

"(5) report on the accounts of the military departments as the Secretary of the department requires.

10 USC 2779.

**“§ 2779. Use of funds because of fluctuations in currency exchange rates of foreign countries**

“(a)(1) Funds transferred from the appropriation ‘Foreign Currency Fluctuations, Defense’ may be transferred back to the appropriation—

“(A) when the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; and

“(B) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay the obligations.

“(2) A transfer back to the Foreign Currency Fluctuations, Defense appropriation may not be made after the end of the 2d fiscal year after the fiscal year that the appropriation to which the funds were originally transferred is available for obligation.

Appropriation.

“(b)(1) One hundred million dollars, plus \$25,000,000 from Family Housing, Defense, are appropriated to the Secretary of Defense, to remain available until spent. The appropriation is available only to provide funds to eliminate losses in military construction or expenses of family housing for the Department of Defense caused by fluctuations in currency exchange rates of foreign countries that changed after a budget request was submitted to Congress.

“(2) Funds provided under this subsection are merged with and are available for the same purpose and for the same time period as the appropriation to which they are applied. An authorization or limitation limiting the amount that may be obligated or spent is increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

“(3) An obligation payable in the currency of a foreign country may be recorded as an obligation based on exchange rates used in preparing a budget submission. A change reflecting fluctuations in the exchange rate may be recorded as a disbursement is made.

Report to Congress.

“(4) The Secretary each year shall report to Congress on funds made available under this subsection.”

(9)(A) Add immediately below item 4540 in the analysis of chapter 433 the following new item:

“4541. Gratuitous services of officers of the Army Reserve.”

(B) Add at the end of chapter 433 the following new section:

10 USC 4541.

**“§ 4541. Gratuitous services of officers of the Army Reserve**

“The Secretary of the Army may accept the gratuitous services of officers of the Army Reserve in enrolling, organizing, and training members of the Army Reserve or the Reserve Officers’ Training Corps, or in consulting on matters related to the armed forces.”

(10)(A) Add immediately below item 4840 in the analysis of chapter 453 the following new items:

“4841. Payment of small amounts to public creditors.

“4842. Settlement of accounts of line officers.”

(B) Add at the end of chapter 453 the following new sections:

10 USC 4841.

**“§ 4841. Payment of small amounts to public creditors**

“When authorized by the Secretary of the Army, a disbursing official of Army subsistence funds may keep a limited amount of

those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

**“§ 4842. Settlement of accounts of line officers**

10 USC 4842.

“The Comptroller General shall settle the account of a line officer of the Army for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.”.

(11)(A) Add immediately below item 7230 in the analysis of chapter 631 the following new item:

“7231. Accounting for expenditures for obtaining information.”.

(B) Add at the end of chapter 631 the following new section:

**“§ 7231. Accounting for expenditures for obtaining information**

10 USC 7231.

“When the Secretary of the Navy decides that an expenditure by the Department of the Navy from an appropriation for obtaining information from anywhere in the world may be made public, the expenditure shall be accounted for specifically. When the Secretary decides that an expenditure should not be made public, the Secretary shall make a certificate on the amount of the expenditure. The certificate is a sufficient voucher for the amount stated to have been spent.”.

(12)(A) Add immediately below item 659 in the analysis of subtitle C the following new item:

“661. Accountability and responsibility ..... 7861”.

(B) Add at the end of subtitle C the following new chapter:

**“CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY**

“Sec.

“7861. Accounts of paymasters of lost or captured public vessels.

“7862. Disbursements by order of commanding officer.

**“§ 7861. Accounts of paymasters of lost or captured public vessels**

10 USC 7861.

“When settling the account of a paymaster of a lost or captured naval vessel, the Comptroller General in settling money accounts, and the Secretary of the Navy in settling property accounts, shall credit the account of the paymaster for the amount of provisions, clothing, small stores, and money for which the paymaster is charged that the Comptroller General or Secretary believes was lost inevitably because of the loss or capture. The paymaster is then free of liability for the provisions, clothing, small stores, and money.

**“§ 7862. Disbursements by order of commanding officer**

10 USC 7862.

“When settling an account of a disbursing official, the Comptroller General shall allow disbursements of public moneys or disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that the money was paid or the stores disposed of as the order provided. The commanding officer is accountable for the disbursement or disposal.”.

(13)(A) Add immediately below item 9540 in the analysis of chapter 933 the following new item:

“9541. Gratuitous services of officers of the Air Force Reserve.”.

(B) Add at the end of chapter 933 the following new section:

10 USC 9541.

“§ 9541. **Gratuitous services of officers of the Air Force Reserve**

“The Secretary of the Air Force may accept the gratuitous services of officers of the Air Force Reserve in enrolling, organizing, and training members of the Air Force Reserve or the Reserve Officers’ Training Corps, or in consulting on matters related to the armed forces.”.

(14)(A) Add immediately below item 9840 in the analysis of chapter 953 the following new items:

“9841. Payment of small amounts to public creditors.

“9842. Settlement of accounts of line officers.”.

(B) Add at the end of chapter 953 the following new sections:

10 USC 9841.

“§ 9841. **Payment of small amounts to public creditors**

“When authorized by the Secretary of the Air Force, a disbursing official of Air Force subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

10 USC 9842.

“§ 9842. **Settlement of accounts of line officers**

“The Comptroller General shall settle the account of a line officer of the Air Force for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.”.

Definitions.

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end the following new paragraph:

“The terms ‘bonds and notes of the United States’, ‘bonds and notes of the Government of the United States’, and ‘bonds or notes of the United States’ used in this Act shall be held to include certificates of indebtedness and Treasury bills issued under section 3104 of title 31.”.

31 USC 3104.

(d) Title 18, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 33, strike out item 714.

(B) Strike out section 714.

Repeal.

18 USC 714.

(2)(A) Insert at the beginning of section 3059 the designation “(a)(1)”.

(B) Insert before the word “If” the designation “(2)”.

(C) Add at the end of the section the following new subsection:

“(b) The Attorney General each year may spend not more than \$10,000 for services or information looking toward the apprehension of narcotic law violators who are fugitives from justice.”.

(3)(A) Insert between items 3150 and 3151 in the analysis of chapter 207 the following new item:

“3150a. Refund of forfeited bail.”.

(B) Insert between sections 3150 and 3151 the following new section:



**“§ 3150a. Refund of forfeited bail**

18 USC 3150a.

“Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the general fund of the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.”.

18 USC app.

(4)(A) Add immediately below item 4042 in the analysis of chapter 303 the following new item:

“4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons.”.

(B) Add at the end of chapter 303 the following new section:

**“§ 4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons**

18 USC 4043.

“The Attorney General may accept gifts or bequests of money for credit to the ‘Commissary Funds, Federal Prisons’. A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).”.

(e) The Act of April 25, 1940 (22 U.S.C. 2668), is amended—

(1) by inserting at the beginning of the text of the Act the subsection designation “(a)”; and

(2) by adding at the end of the Act the following new subsections:

State  
Department  
account of  
advances.

“(b) A charge outstanding in the ‘State account of advances’ shall be removed by crediting the account of advances and deducting the amount of the charge from an appropriation made available for advances to the Department of State when—

“(1) relief has been granted or may be granted later to a disbursing official or agent of the Department operating under the account of advances and under a law having no provision for removing charges outstanding in the account of advances; or

“(2) the charge has been—

“(A) outstanding in the account of advances for 2 complete fiscal years; and

“(B) certified by the Secretary of State to the Comptroller General as uncollectable.

“(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.”.

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7801(c), insert immediately after “in this section” the following: “or section 301(f) of title 31”.

26 USC 7801.

(2) In section 7802(b)—

26 USC 7802.

(A) insert immediately before “There” the following:

“(1) Establishment of Office.—”.

(B) Add at the end of section 7802(b) the following new paragraph:

Appropriation  
authorization.

“(2) Authorization of appropriations.—There is authorized to be appropriated to the Department of the Treasury to carry out the functions of the Office an amount equal to the sum of—

“(A) so much of the collections from taxes imposed under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year; and

26 USC 4940.

“(B) the greater of—

- “(i) an amount equal to the amount described in paragraph (A); or
- “(ii) \$30,000,000.”

(g) Title 28, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 31, strike out—

“524. Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs.”

and substitute—

“524. Availability of appropriations.”

(B) In the catchline of section 524, strike out—

“Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs”

and substitute—

“Availability of appropriations”.

(C) Insert at the beginning of the text of section 524 the subsection designation “(a)”.

(D) Add at the end of section 524 the following new subsection:

“(b) Except as provided in subsection (a) of this section, a claim of not more than \$500 for expenses related to litigation that is beyond the control of the Department may be paid out of appropriations currently available to the Department for expenses related to litigation when the Comptroller General settles the payment.”.

(2) Add at the end of section 571 the following new subsection:

“(d) Appropriations for salaries, expenses, and fees of marshals are available for advances with the approval of the Attorney General.”.

(3)(A) Insert between items 572 and 573 in the analysis of chapter 37 the following new item:

“572a. Depositing public moneys.”.

(B) Insert between sections 572 and 573 the following new section:

28 USC 572a.

**“§ 572a. Depositing public moneys**

28 USC 2041.

“Except for public moneys deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into a checking account in the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.”.

(4)(A) In the analysis of chapter 129, strike out—

“2041. Deposit.”

and substitute—

“2041. Deposit of moneys in pending or adjudicated cases.”.

(B) Add immediately below item 2042 in the analysis of the chapter the following new item:

“2043. Deposit of other moneys.”.

(C) In the catchline of section 2041, strike out—

28 USC 2041.

**“Deposit”**

and substitute—

**“Deposit of moneys in pending or adjudicated cases”.**

(D) In section 2042, insert the words—

28 USC 2042.

(i) “under section 2041 of this title” immediately after  
“No money deposited” in the first paragraph; and

(ii) “under section 2041” immediately after “deposited in  
court” in the last paragraph.

(E) Add at the end of chapter 129 the following new section:

**“§ 2043. Deposit of other moneys**

28 USC 2043.

“Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.”.

28 USC 2041.

(5) Effective on the later of October 1, 1982, or the date of enactment of this Act, amend section 2516(b) to read as follows:

Effective date.  
28 USC 2516.

“(b) Interest on a judgment against the United States affirmed by the Supreme Court after review on petition of the United States is paid at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately before the date of the judgment.”.

(h) Section 107 of title 32, United States Code, is amended by adding at the end the following new subsection:

National Guard  
pay and  
allowances.

“(c) The pay and allowances for the Chief of the National Guard Bureau and officers of the Army National Guard of the United States or the Air National Guard of the United States called to active duty under section 3496 or 8496 of title 10 shall be paid from appropriations for the pay of the Army National Guard or Air National Guard.”.

10 USC 3496,  
8496.

(i) Title 37, United States Code, is amended as follows:

(1) Add at the end of section 406 the following new subsection:

Transportation  
allowances for  
uniformed  
services.

“(j) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.”.

(2)(A) Add immediately below item 1011 in the analysis of chapter 19 the following new item:

“1012. Disbursement and accounting.”.

(B) Add at the end of chapter 19 the following new section:

**“§ 1012. Disbursement and accounting**

37 USC 1012.

“Amounts appropriated under sections 206 (a), (b), and (d), 301(f), 309, 402(b) (last sentence), and 1002 of this title for pay of enlisted members of the Army National Guard of the United States or the

37 USC 206, 301,  
309, 402, 1002.

Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the Secretary concerned. Disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the Secretary concerned, and on pay rolls prepared and authenticated under the regulations.”

(j) Section 203 of title 38, United States Code, is amended—

(1) by inserting at the beginning of the text of the section the subsection designation “(a)”;

Appropriation.

(2) by adding at the end of the section the following new subsection:

“(b) An appropriation may be used for a settlement of more than \$1,000,000 on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is not provided for specifically in an appropriation law.”

(k) Section 409 of title 39, United States Code, is amended by adding at the end the following new subsection:

“(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.”

Effective date.  
31 USC 9101  
note.  
95 Stat. 439.

(l) Effective on the date prescribed by section 396(i) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 441), the following sections of title 31 (enacted by section 1 of this Act), United States Code, are amended as follows:

(1) In section 9101(2), strike out—

“(K) the National Consumer Cooperative Bank.”

(2) In sections 9107(c)(3) and 9108(d)(2), strike out “the National Consumer Cooperative Bank.”

Effective date.  
28 USC 1961  
note.

(m) Effective on the later of October 1, 1982, or the date of enactment of this Act—

(1) section 1961(b) of title 28, United States Code, as added by section 302(a)(3) of the Federal Courts Improvement Act of 1982 (Public Law 97-164; 96 Stat. 56), is amended by striking out “title 28, United States Code, and section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)” and substituting “this title and section 1304(b)(1) of title 31”;

(2) section 1304 of title 31 (as enacted by section 1 of this Act), United States Code, is amended—

(A) in subsection (b)(1)(A), by striking out the words “under section 2411(b) of title 28”; and

(B) in subsection (b)(1)(B), by striking out the words “Court of Claims” and substituting “Court of Appeals for the Federal Circuit or the United States Claims Court”; and

Repeal.

(3) sections 155, 160(11), and 302(c) and (d) of the Federal Courts Improvement Act of 1982 (Public Law 97-164, 96 Stat. 47, 48, 56) are repealed.

Ante, p. 55.

#### CONFORMING CROSS-REFERENCES

SEC. 3. (a) Title 5, United States Code, is amended as follows:

(1) In section 575(c)(13), strike out “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” and substitute “section 1342 of title 31”.

(2) In section 1205(j), strike out “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)” and substitute “section 1105 of title 31”.

(3) In section 3102(b)(1)(C), strike out “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” and substitute “section 1342 of title 31”.

(4) In section 3109(a)(2), strike out “section 849 of title 31” and substitute “section 9104 of title 31”.

(5) In section 3111(b), strike out “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” and substitute “section 1342 of title 31”.

(6) In section 3374(c)(2), strike out “section 638a of title 31” and substitute “sections 1343, 1344, and 1349(b) of title 31”.

(7) In section 3381(d), strike out “section 529 of title 31” and substitute “section 3324(a) and (b) of title 31”.

(8) In section 4101(1)(C), strike out “sections 846–852 or 856–859 of title 31” and substitute “chapter 91 of title 31”.

(9) In section 4109(a)(2), strike out “section 529 of title 31” and substitute “section 3324(a) and (b) of title 31”.

(10) In section 5307(a), strike out “section 665 of title 31” and substitute “sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31”.

(11) In section 5349(b), strike out “section 180 of title 31” and substitute “section 5141 of title 31”.

(12) In section 5514(b), strike out “section 581d of title 31” and substitute “section 3530(d) of title 31”.

(13) In section 5545(a), strike out “section 180 of title 31” and substitute “section 5141 of title 31”.

(14) In section 5721(5), strike out “section 849 of title 31” and substitute “section 9104 of title 31”.

(15) In sections 5923(2) and 5924(4)(A), strike out “section 529 of title 31” and substitute “section 3324(a) and (b) of title 31”.

(16) In section 7903, strike out “section 849 of title 31” and substitute “section 9104 of title 31”.

(17) In section 8147(c), strike out “section 856 of title 31” and “sections 841–869 of title 31” and substitute “section 9101(2) of title 31” and “chapter 91 of title 31”, respectively.

(b) Title 10, United States Code, is amended as follows:

(1) In section 139(a), strike out “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)” and substitute “section 1105 of title 31”.

(2) Strike out the last sentence of section 140a.

(3) In section 2127(b), strike out “section 3648 of the Revised Statutes (31 U.S.C. 529)” and substitute “section 3324(a) and (b) of title 31”.

(4) In section 2205, strike out “the Act of March 4, 1915 (31 U.S.C. 686)” and substitute “sections 1535 and 1536 of title 31”.

(5) In section 2212, strike out “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)” and substitute “section 1105 of title 31”.

(6) In section 2388(c), strike out “section 529 of title 31” and substitute “section 3324(a) and (b) of title 31”.

(7) In section 2633(a), strike out “section 3678 of the Revised Statutes (31 U.S.C. 628)” and substitute “section 1301(a) of title 31”.

(8) In section 6154, strike out “section 529 of title 31” and substitute “section 3324(a) and (b) of title 31”.

(9) In section 7522(b), strike out “Section 3648 of the Revised Statutes (31 U.S.C. 529)” and substitute “Section 3324(a) and (b) of title 31”.

(10) In section 7605, strike out “sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)” and substitute “section 3302(a) of title 31”.

(c) Sections 345 and 15345 of title 11, United States Code, are each amended by striking out “section 15 of title 6” and substituting “section 9303 of title 31”.

(d) Section 659 of title 14, United States Code, is amended by striking out “section 1 of the Act of July 25, 1956, as amended (31 U.S.C. 701)” and substituting “section 1352(a) of title 31”.

(e) Title 18, United States Code, is amended as follows:

(1) In section 1906, strike out “section 117(e) of the Accounting and Auditing Act of 1950” wherever it appears and substitute “section 714 of title 31”.

(2) In section 4109(2), strike out “section 3648 of the revised statutes as amended (31 U.S.C. 529)” and substitute “section 3324(a) and (b) of title 31”.

(3) In section 4204(b)(1), strike out “section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)” and substitute “section 3324(a) and (b) of title 31”.

(4) In section 4204(b)(2), strike out “section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b))” and substitute “section 1342 of title 31”.

(5) In section 4284(a), strike out “(31 U.S.C. 725s(22))” and substitute “in section 1321(a)(22) of title 31”.

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In sections 170(k)(7) and 2055(f)(6), strike out “section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)” and substitute “section 4043 of title 18, United States Code”.

(2) In section 2055(f)(7), strike out “section 24 of the Second Liberty Bond Act (31 U.S.C. 757e)” and substitute “section 3113(e) of title 31, United States Code”.

(3) In sections 5177(b)(1) and 5403(3), strike out “6 U.S.C. 15” and substitute “section 9303 of title 31, United States Code”.

(4) In section 6103(i)(6)(A)(i), strike out “section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67)” and substitute “section 713 of title 31, United States Code”.

(5) In section 6103(l)(4)(A)(ii), strike out “section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026)” and substitute “section 330 of title 31, United States Code”.

(6) In section 6103(m)(2), strike out “section 3 of the Federal Claims Collection Act of 1966” and substitute “section 3711 of title 31, United States Code”.

(7) In section 6326(6), strike out “R.S. 3466 (31 U.S.C. 191)” and substitute “section 3713(a) of title 31, United States Code”.

(8) In section 6422(10), strike out “R.S. 3477 (31 U.S.C. 203)” and substitute “section 3727 of title 31, United States Code”.

(9) In section 6422(11), strike out “the Act of March 3, 1875, as amended by section 13 of the Act of March 3, 1933 (31 U.S.C. 227)” and substitute “section 3728 of title 31, United States Code”.

26 USC 170,  
2055.

26 USC 5177,  
5403.

26 USC 6103.

26 USC 6326.

26 USC 6422.

- (10) In section 6901(a)(1)(B), strike out “section 3467 of the Revised Statutes (31 U.S.C. 192)” and substitute “section 3713(b) of title 31, United States Code”. 26 USC 6901.
- (11) In section 7101(2), strike out “6 U.S.C. 15” and substitute “section 9303 of title 31, United States Code”. 26 USC 7101.
- (12) In section 7123— 26 USC 7123.
- (A) strike out of subsection (a) the following:  
“(a) Criminal penalties”; and
- (B) strike out subsection (b).
- (13) In section 7421(b)(2), strike out “section 3467 of the Revised Statutes (31 U.S.C. 192)” and substitute “section 3713(b) of title 31, United States Code”. 26 USC 7421.
- (14) In section 7430(6), strike out “R.S. 3466 (31 U.S.C. 191)” and substitute “section 3713(a) of title 31, United States Code”. 26 USC 7430.
- (15) In section 7485(b)(2), strike out “6 U.S.C. 15” and substitute “section 9303 of title 31, United States Code”. 26 USC 7485.
- (g) Section 1828(b) of title 28, United States Code, is amended by striking out “section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a)” and substituting “section 9701 of title 31”.
- (h) Title 32, United States Code, is amended as follows:
- (1) In section 334(a), strike out “section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)” and substitute “section 1304 of title 31”.
- (2) In section 710(d), strike out “(31 U.S.C. 725c(b)(22))”.
- (i) Section 42(b) of title 35, United States Code, is amended by striking out “, the provisions of section 725e of title 31, United States Code, notwithstanding”.
- (j) Section 1006(h) of title 37, United States Code, is amended by striking out “section 3648 of the Revised Statutes (31 U.S.C. 529)” and substituting “section 3324(a) and (b) of title 31”.
- (k) Title 38, United States Code, is amended as follows:
- (1) In section 620A(d)(1), strike out “the Act of March 4, 1915 (31 U.S.C. 686)” and substitute “sections 1535 and 1536 of title 31”.
- (2) In section 1632, strike out—
- (A) “subsection (a) of section 725s of title 31” and substitute “section 1322(a) of title 31”; and
- (B) “the last proviso of that subsection” and substitute “section 1322(a)”.
- (3) In section 1820(a)(6), strike out “section 3617, Revised Statutes (31 U.S.C. 484)” and substitute “section 3302(b) of title 31”.
- (4) In sections 3021(a) and 3109(a), strike out “sections 123–128 of title 31” and substitute “sections 3329 and 3330 of title 31”.
- (5) In section 3204, strike out “the last proviso of subsection (a) of section 725s of title 31” and substitute “section 1322(a) of title 31”.
- (6) In section 4118(g)(3), strike out “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)” and substitute “section 1105 of title 31”.
- (7) In section 4142(f)(2), strike out “section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)” and substitute “section 3324(a) and (b) of title 31”.
- (8) In the first sentence of section 4206, strike out “corporations by sections 841–869 of title 31,” and substitute “corporations by chapter 91 of title 31,”.

38 USC 5202,  
5220.

(9) In sections 5202(d) and 5220(a), strike out “section 725s(a)(45) of title 31” and substitute “section 1321(a)(45) of title 31”.

(l) Title 39, United States Code, is amended as follows:

(1) In section 2003(e)(1), strike out “section 665 of title 31” and substitute “subchapter II of chapter 15 of title 31”.

(2) In section 2009, strike out “section 11 of title 31” and substitute “section 1105 of title 31”.

(m) Title 44, United States Code, is amended as follows:

(1) In section 308(c)(1), strike out “section 244 of title 31” and substitute “section 3726 of title 31”.

(2) In section 309(d), strike out “section 849 of title 31” and substitute “section 9104 of title 31”.

(3) In section 3519, strike out “section 313 of the Budget and Accounting Act of 1921, as amended” and substitute “section 716 of title 31”.

(n) Section 11706(f) of title 49, United States Code, is amended by striking out “section 244 of title 31” and substituting “section 3726 of title 31”.

(o)(1) Rule XLIX of the Rules of the House of Representatives is amended as follows:

(A) In clause 2—

(i) strike out “the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b)” and substitute “section 3101(b) of title 31, United States Code,”; and

(ii) strike out “section 21 of the Second Liberty Bond Act” and substitute “section 3101(b) of title 31”.

(B) In clause (5)—

(i) strike out “the Second Liberty Bond Act” and substitute “chapter 31 of title 31, United States Code,”;

(ii) strike out “section 21 of such Act” and substitute “section 3101(b) of title 31”; and

(iii) strike out “the second sentence thereof” and substitute “section 3101(a) of title 31”.



## (2) This subsection—

(A) is enacted as an exercise of the rulemaking power of the House of Representatives; and

(B) may be changed by the House at any time, in the same way, and to the same extent as any other rule of the House, under the constitutional right of the House to change its rules.

## LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 4. (a) Sections 1-3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

31 USC note  
prec.101.

(b) A reference to a law replaced by sections 1-3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-3 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-3 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

Executive Orders

Date	Order No.	Section
1983		
June 10 .....	6166	4
1984		
May 29 .....	6728	

Approved September 13, 1982.

LEGISLATIVE HISTORY—H.R. 6128:

HOUSE REPORT No. 97-651 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
    Aug. 9, considered and passed House.  
    Aug. 20, considered and passed Senate.

Public Law 97-259  
97th Congress

An Act

To amend the Communications Act of 1934, and for other purposes.

Sept. 13, 1982  
[H.R. 3239]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Communications  
Act of 1934,  
amendment.  
Communications  
Amendments  
Act of 1982.

TITLE I—COMMUNICATIONS AMENDMENTS

SHORT TITLE

SECTION. 101. This title may be cited as the “Communications Amendments Act of 1982”.

47 USC 609 note.

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL  
COMMUNICATIONS COMMISSION

SEC. 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

“(b)(1) Each member of the Commission shall be a citizen of the United States.

“(2)(A) No member of the Commission or person employed by the Commission shall—

Prohibitions.

“(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

“(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

“(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

“(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

“(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

Waiver  
authority.

Notice;  
publication in  
Federal  
Register;  
notification to  
congressional  
committees.

“(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

“(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

“(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

“(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

“(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

“(D) the perceptions held by the public regarding the business activities of such company or other entity.

“(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

“(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.”.

#### APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out “The”;

(2) by striking out “first appointed” and all that follows through “but their successors”; and

(3) by striking out “qualified” and inserting in lieu thereof “been confirmed and taken the oath of office”.

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

“(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.”.

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out “a legal assistant, an engineering assistant,” and inserting in lieu thereof “three professional assistants”.

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting “(1)” after the subsection designation, and by adding at the end thereof the following new paragraph:

5 USC 5315.

5 USC 5314.

“(2)(A) If—

“(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

“(ii) such attendance and participation are in furtherance of the functions of the Commission; and

“(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting; then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

“(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

“(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

“(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985.”.

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out “: *Provided*, That the” and all that follows through “by such reports”.

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out “Bureau of the Budget” and inserting in lieu thereof “Office of Management and Budget”.

Publication in  
Federal  
Register.

#### USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

“(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

“(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the

preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph.

“(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

“(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

“(II) accept and employ the voluntary and uncompensated services of such individual.

“(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

“(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

“(I) the detection of improper amateur radio transmissions;

“(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

“(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

“(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

“(I) recruit and train any citizens band radio operator; and

“(II) accept and employ the voluntary and uncompensated services of such operator.

“(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

“(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

“(I) the detection of improper citizens band radio transmissions;

“(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

“(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any

provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service. Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

“(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).”

5 USC 2101.

“(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

“(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

“(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.”

Rules of conduct and regulations.

#### ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out “Within” and all that follows through “and from” and inserting in lieu thereof “From”; and

(2) by striking out “thereafter”.

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out “three” and inserting in lieu thereof “two”.

#### REGULATION OF POLE ATTACHMENTS

SEC. 106. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsection (e) thereof.

#### JURISDICTION OF COMMISSION

SEC. 107. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out “interstate and foreign”;

(2) by inserting “State,” after “any” the third place it appears therein;

(3) by inserting a comma after “Territory” the first place it appears therein; and

(4) by inserting “State,” after “same”.

#### INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 108. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting “(1)” after “regulations”, and by inserting before the period at the end thereof the following: “; and (2) establishing minimum performance

47 USC 302a.

standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy”.

47 USC 302a. (2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out “shipment, or use of such devices” and inserting in lieu thereof “or shipment of such devices and home electronic equipment and systems, and to the use of such devices”.

47 USC 302a. (3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out “ship, or use devices” and inserting in lieu thereof “or ship devices or home electronic equipment and systems, or use devices,”.

47 USC 302a. (4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting “or home electronic equipment and systems” after “devices” each place it appears therein; and

(B) in the last sentence thereof, by inserting “and home electronic equipment and systems” after “Devices”, by striking out “common objective” and inserting in lieu thereof “objectives”, and by inserting “and to home electronic equipment and systems” after “reception”.

47 USC 302a note. (b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

#### QUALIFICATIONS OF STATION OPERATORS

SEC. 109. Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)) is amended—

(1) by striking out “such citizens” and all that follows through “qualified” and inserting in lieu thereof “persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States”; and

(2) by striking out “in issuing licenses” and all that follows through the end thereof and inserting in lieu thereof the following: “such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;”.

#### GROUND FOR SUSPENSION OF LICENSES

SEC. 110. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting “, or caused, aided, or abetted the violation of,” after “violated”.



**LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS**

**SEC. 111.** (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

“(t) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.”.

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting “(except as provided in section 303(t))” after “United States”.

**REVISION OF LICENSE TERMS**

**SEC. 112.** (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out “five years” the second place and the last place it appears therein and inserting in lieu thereof “ten years”; and

(2) by inserting after the second sentence thereof the following new sentence: “The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station.”.

**AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES**

**SEC. 113.** (a) Section 307 of the Communications Act of 1934, as amended in section 112(a), is further amended by adding at the end thereof the following new subsection:

“(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

“(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

“(3) For purposes of this subsection, the terms ‘radio control service’ and ‘citizens band radio service’ shall have the meanings given them by the Commission by rule.”.

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after “any Act” the first place it

appears therein the following: “, or which the Commission by rule has authorized to operate without a license under section 307(e)(1).”.

#### AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 114. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

- (1) by striking out “emergency” each place it appears therein and inserting in lieu thereof “temporary”;
- (2) by striking out “one additional period” and inserting in lieu thereof “additional periods”; and
- (3) by striking out “ninety days” and inserting in lieu thereof “180 days”.

#### RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

95 Stat. 736.

SEC. 115. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

- (1) by striking out “applicant” the first place it appears therein and inserting in lieu thereof “application”; and
- (2) by striking out “the qualifications of each such applicant under section 308(b)” and inserting in lieu thereof “that each such application is acceptable for filing”.

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

“(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

“(A) adopt procedures for the submission of all or part of the evidence in written form;

“(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

“(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).”.

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out “, groups” the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: “used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.”.

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

“(C) For purposes of this paragraph:

Hearing.

“(i) The term ‘media of mass communications’ includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

“Media of mass communications.”

“(ii) The term ‘minority group’ includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.”.

“Minority group.”

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out “effective date of this subsection” and inserting in lieu thereof “date of the enactment of the Communications Technical Amendments Act of 1982”.

#### AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 116. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out “the agreement” the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: “(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching out or carrying out such agreement.”.

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out “two or more” and all that follows through “station” and inserting in lieu thereof the following: “an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station”.

95 Stat. 737.

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out “license”.

#### WILLFUL OR REPEATED VIOLATIONS

SEC. 117. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

Definitions.

“(f) For purposes of this section:

“(1) The term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

“(2) The term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”.

#### APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 118. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out “the construction of which is begun or is continued after this Act takes effect,”.

## AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 119. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

“(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.”.

## PRIVATE LAND MOBILE SERVICES

SEC. 120. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

## “PRIVATE LAND MOBILE SERVICES

47 USC 332. “SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

47 USC 151. “(1) promote the safety of life and property;  
“(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

“(3) encourage competition and provide services to the largest feasible number of users; or

“(4) increase interservice sharing opportunities between private land mobile services and other services.

“(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

5 USC 2101. “(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

“(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

5 USC app. “(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

“(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch sys-

tems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

“(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

“(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.”.

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

“(gg) ‘Private land mobile service’ means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.”.

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

“(n) ‘Mobile service’ means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services.”.

“Mobile service.”

#### NOTICES OF APPEAL

SEC. 121. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out “Commission” the first place it appears therein and inserting in lieu thereof “appellant”;

(2) by striking out “date of service upon it” and inserting in lieu thereof “filing of such notice”;

(3) by striking out “and shall thereafter” and all that follows through “Washington”; and

(4) by striking out “Within thirty days after the filing of an appeal, the” and inserting in lieu thereof “The”.

#### COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 122. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out “public notice” and all that follows through the end thereof and inserting in lieu thereof the following: “the Commission gives public notice of the order, decision, report, or action complained of.”.

**EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS**

**SEC. 123.** Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order."

**APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS**

**SEC. 124.** The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting ", or is a cable television system operator" before the period at the end thereof.

**FORFEITURE OF COMMUNICATIONS DEVICES**

**SEC. 125.** Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

**"FORFEITURE OF COMMUNICATIONS DEVICES**

47 USC 510.

"SEC. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

47 USC 301, 302.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States."

**EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS**

SEC. 126. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

- (1) by striking out “broadcast or”;
- (2) by striking out “amateurs or others” and inserting in lieu thereof “any station”;
- (3) by striking out “or” the last place it appears therein;
- (4) by inserting “, aircraft, vehicles, or persons” after “ships”;
- and
- (5) by inserting before the period at the end thereof the following: “, or which is transmitted by an amateur radio station operator or by a citizens band radio operator”.

**TECHNICAL AMENDMENTS**

SEC. 127. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out “ether” and inserting in lieu thereof “electromagnetic spectrum”.

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out “Public Law” and all that follows through the end thereof and inserting in lieu thereof “chapter 158 of title 28, United States Code.”

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out “rehearing” each place it appears therein and inserting in lieu thereof “reconsideration”.

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out “REHEARINGS” and inserting in lieu thereof “RECONSIDERATIONS”.

**AMENDMENT TO OTHER LAW**

SEC. 128. Section 1114 of title 18, United States Code, is amended by inserting after “law enforcement functions,” the following: “or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,”.

**TITLE II—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION****AUTHORIZATION OF APPROPRIATIONS**

SEC. 201. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration \$12,917,000 for fiscal year 1983, and \$11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

**STUDY OF TELECOMMUNICATIONS AND INFORMATION GOALS**

SEC. 202. (a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the

47 USC 151 note.

strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which *directly* affect such policies.

Approved September 13, 1982.

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**LEGISLATIVE HISTORY—H.R. 3239 (S. 821):**

HOUSE REPORTS: No. 97-84 (Comm. on Energy and Commerce) and No. 97-765 (Comm. of Conference).

SENATE REPORT No. 97-73 accompanying S. 821 (Comm. on Commerce, Science and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 8, 9, considered and passed House.

Vol. 128 (1982): Aug. 18, considered and passed Senate, amended.

Aug. 19, Senate and House agreed to conference report.



Public Law 97-260  
97th Congress

Joint Resolution

To provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

Sept. 18, 1982  
[S.J. Res. 194]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb of the District of Columbia on June 21, 1982, is filled by the appointment of Nancy Hanks of the District of Columbia for the statutory term of six years.

Smithsonian  
Institution.

Approved September 18, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 194:

HOUSE REPORT No. 97-753 (Comm. on House Administration).  
SENATE REPORT No. 97-434 (Comm. on Rules and Administration).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 9, considered and passed Senate.  
Sept. 13, considered and passed House.

Public Law 97-261  
97th Congress

An Act

Sept. 20, 1982  
[H.R. 3663]

To amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

Bus Regulatory  
Reform Act of  
1982.  
49 USC 10101  
note.  
49 USC 10101  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Bus Regulatory Reform Act of 1982".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary and burdensome Government regulation.

CONGRESSIONAL FINDINGS

49 USC 10101  
note.

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel-efficient motor bus system contributes to the maintenance of a strong national economy and a strong national defense and is vital to the transportation needs of the elderly, handicapped, and the poor; that the statutes governing Federal regulation of the motor bus industry are outdated and must be revised to reflect the future transportation needs and realities; that historically the existing Federal and State regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the motor bus industry; that State regulation of the motor bus industry has, in certain circumstances, unreasonably burdened interstate commerce; that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry; that the objectives contained in the national transportation policy can best be achieved through greater competition and reduced regulation; that in order to reduce the uncertainty felt by the Nation's motor bus industry and those persons and communities that rely on its services, the Interstate Commerce Commission should be given explicit direction for reduced regulation of the motor bus industry and should do everything within its power to promote competition in the motor bus industry; and that legislative and resulting changes should be implemented without unnecessary disruption to the transportation system consistent with the scope of the reforms enacted.

CONGRESSIONAL OVERSIGHT

Hearings.  
49 USC 10101  
note.

SEC. 4. The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, not less than annually until July 1, 1985, to ensure that this Act is being implemented according to congressional intent and purpose.

## NATIONAL TRANSPORTATION POLICY

SEC. 5. Subsection (a) of section 10101 of title 49, United States Code, is amended by striking out “and in regulating those modes” and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: “and—

“(1) in regulating those modes—

“(A) to recognize and preserve the inherent advantage of each mode of transportation;

“(B) to promote safe, adequate, economical, and efficient transportation;

“(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

“(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

“(E) to cooperate with each State and the officials of each State on transportation matters; and

“(F) to encourage fair wages and working conditions in the transportation industry;

“(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, passengers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers and intrastate bus services; (F) provide and maintain commuter bus operations; (G) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (H) promote greater participation by minorities in the motor carrier system; and (I) promote intermodal transportation; and

“(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.”.

## MOTOR CARRIER OF PASSENGERS ENTRY POLICY

SEC. 6. (a) Subsection (a) of section 10922 of title 49, United States Code, is amended (1) by striking out “II or”, and (2) by striking out “motor common carrier of passengers or water common carrier, respectively,” and inserting in lieu thereof “water common carrier”.

(b) Section 10922 of title 49, United States Code, is amended by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) (and any references thereto) as subsections (d), (e), (f), (g), (h), (i), (j), and (k),

respectively, and by inserting after subsection (b) the following new subsection:

“(c)(1) Except as provided in this section—

49 USC 10521.

“(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and shall issue a certificate to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

“(B) For any application for authority as a motor common carrier of passengers, except an application to which subparagraph (A) of this paragraph applies, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

“(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of this subsection to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

“(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority, or will be granted authority, after the effective date of this section to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

“(C) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or

enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and if a city within the commercial zone, as defined in section 10526(b)(1) of this title, is served by a motor common carrier of passengers providing regular-route transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

49 USC 10526.

49 USC 10521.

“(D) Subject to subparagraph (F) of this paragraph, any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this subtitle. Upon issuance of such certificate, the carrier shall establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under such subchapter establishes rates, rules, and practices applicable to such interstate transportation. Any such rate, rule, or practice (including changes thereto) shall be subject to the provisions of chapter 107 of this subtitle as if such rate, rule, or practice were related to interstate transportation.

49 USC 10701  
*et seq.*

“(E) Not later than 30 days after the date on which a motor common carrier of passengers first begins providing transportation entirely in one State pursuant to a certificate issued under this paragraph, the carrier shall take all action necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

“(F) Transportation entirely in one State authorized by issuance of a certificate under this paragraph shall remain subject to the jurisdiction of the Commission, and rates, rules, and practices applicable to such transportation established under subparagraph (D) of this paragraph shall remain in effect, until permanent rates, rules, and practices applicable to such transportation are established under the laws of such State.

“(G) The Commission shall take final action upon an application filed under subparagraph (A) of this paragraph for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

“(H) This paragraph shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

“(I) Notwithstanding subparagraph (F) of this paragraph, intrastate transportation authorized under this paragraph may be suspended or revoked by the Commission under section 10925 of this title.

49 USC 10925.

“(3) In making any findings relating to public interest under paragraphs (1)(A) and (2)(B) of this subsection, the Commission shall consider, to the extent applicable—

“(A) the transportation policy of section 10101(a) of this title;

*Ante*, p. 1103.

“(B) the value of competition to the traveling and shipping public;

“(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

“(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to

provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route system.

“(4) The provisions of paragraph (1) of this subsection relating to the Commission finding that transportation to be authorized by issuance of a certificate is not consistent with the public interest shall not apply to any application under this subsection for authority to provide—

“(A) interstate transportation service to any community not regularly served by a motor common carrier of passengers under this section;

“(B) interstate transportation service which will be a substitute for discontinued rail or commercial-air passenger service to a community if such discontinuance results in such community not having any rail and commercial-air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

“(C) interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to discontinue or reduce its level of intrastate service to such community under section 10935 of this subchapter.

“(5) The Commission may not make any finding under paragraphs (1) and (2) of this subsection which is based upon general findings developed in rulemaking proceedings.

“(6) The requirement that persons issued certificates under this subsection be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.

“(7) No motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

“(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

“(ii) it is willing and able to provide service that meets the reasonable needs of the traveling public; and

“(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

“(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

“(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

“(8) No motor contract carrier of passengers may protest an application to provide transportation filed under this subsection.

49 USC 10925.

*Post*, p. 1115.

*Post*, p. 1120.

*Post*, p. 1108.

*Ante*, p. 1103.

"(9) For purposes of this section, authority under this subsection to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation or any combination of air, rail, or water transportation."

(c) Paragraph (4) of subsection (e) of section 10922 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended to read as follows:

"(4) A certificate of a motor common carrier to transport passengers shall be deemed to include permissive authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with the passengers, or baggage of passengers in a separate motor vehicle."

(d)(1) Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (5) through (29), and any references thereto, as paragraphs (6) through (30), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) 'commuter bus operations' means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced-fare, multiple-ride, or commutation tickets during morning and evening peak period operations."

"Commuter bus operations."

(2) Section 11711(f) of such title is amended by striking out "10102(10)(A)" and inserting in lieu thereof "10102(11)(A)".

49 USC 11711.

(3) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(18)" and inserting in lieu thereof "10102(19)".

26 USC 250.

(4)(A) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(12)" and inserting in lieu thereof "10102(13)".

(B) Section 5201(6) of title 39, United States Code, is amended by striking out "10102(7)" and inserting in lieu thereof "10102(8) of title 49".

(e) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting "10708(f)," immediately after "10708(b),";

(2) by striking out "10922(h)(2)" and inserting in lieu thereof "10922(i)(2), 10922(i)(4)"; and

*Post*, p. 1108.

(3) by adding at the end thereof the following new sentence: "In addition, the deadlines set forth in this section do not apply to any application filed under section 10922(c)(2)(A) of this subtitle for authority to provide regular-route transportation entirely in one State as a motor common carrier of passengers."

*Ante*, p. 1103.

(f) Section 10521(b) of title 49, United States Code, is amended—

(1) in clause (1) by inserting "except as provided in sections 10922(c)(2), 10935, and 11501(e) of this title," immediately before "affect";

*Ante*, p. 1103,  
*post*, pp. 1115,  
1117.

(2) in clause (2) by inserting "except as provided in sections 10922(c)(2) and 11501(e)," immediately before "authorize"; and

(3) in clause (3) by inserting "except as provided in section 10922(c)(2) of this title," immediately before "allow".

(g) Section 10922 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(1)(1) Except as provided in paragraph (2) of this subsection, the Commission, notwithstanding any other provision of law (other than such paragraph (2)), shall not issue any certificate to any motor

common carrier, or any permit to any motor contract carrier, domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country in the two-year period beginning on the effective date of this subsection. The President of the United States may extend, beyond such two-year period, such moratorium with respect to any contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision.

“(2) The President of the United States may remove or modify, in whole or in part, any moratorium imposed under paragraph (1) of this subsection on the issuance of certificates or permits if the President determines that such removal or modification is in the national interest and notifies, in writing, the Congress of such removal or modification before the date on which such removal or modification is to take effect. In any case in which such moratorium applies to a contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision, such removal or modification shall not take effect before the 60th day following the date on which the Congress is notified of such removal or modification.”.

#### RESTRICTION REMOVAL

SEC. 7. Section 10922(i) of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by adding at the end thereof the following new paragraphs:

“(3) On the effective date of this paragraph, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authorize (but not require)—

“(A) round-trip operations where only one-way authority exists; and

“(B) special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

“(4) Upon request of any person issued a certificate to provide interstate transportation of passengers under this section, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be provided.”.

#### MIXING OF REGULAR AND CHARTER PASSENGERS

SEC. 8. Subsection (j) of section 10922 of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,



by inserting “(1)” before “A person holding”, and by adding at the end of such subsection the following new paragraphs:

“(2)(A) Subject to the provisions of this paragraph, a motor common carrier of passengers who has authority under this section to provide special or charter transportation of passengers and to provide regular-route transportation of passengers may transport the special or charter passengers in the same motor vehicle with regular-route passengers.

“(B) Subparagraph (A) of this paragraph shall only apply to transportation of passengers entirely in a State if the motor common carrier of passengers has authority under the laws of such State to provide within such State special or charter transportation of passengers and regular-route transportation of passengers and if the laws of such State and the certificate, permit, or other authority under which such carrier provides intrastate transportation in such State authorizes such carrier to transport special or charter passengers in the same motor vehicle with regular-route passengers.

“(C) Special or charter transportation of passengers may only be provided under subparagraph (A) of this paragraph in the same motor vehicle as regular-route transportation of passengers if the mixing of such passengers does not interfere with the obligation of the carrier to comply with section 11101 of this subtitle.

49 USC 11101.

“(3) Subject to such regulations as the Commission may issue, a person who has authority under this section to provide charter transportation of passengers may transport groups of charter passengers in the same motor vehicle at the same time.”.

#### RULE OF RATEMAKING

SEC. 9. (a) Section 10701(e) of title 49, United States Code, is amended by striking out “of property” each place it appears.

(b) Section 10704(b)(2)(B) of title 49, United States Code, is amended by striking out “of property”.

#### RATE BUREAUS

SEC. 10. (a) Paragraphs (1) and (2) of section 10706(b) of title 49, United States Code, are amended by striking out “of property” each place it appears.

(b)(1) Section 10706(b)(3)(B)(i) of title 49, United States Code, is amended by striking out “and (D)” and inserting in lieu thereof “, (D), (E), and (F)”.

(2) Section 10706(b)(3)(B)(iii) of title 49, United States Code, is amended by striking out “of property”.

(3) Section 10706(b)(3)(D) of title 49, United States Code, is amended by inserting after the first sentence the following new sentence: “This subparagraph shall not apply to any single-line rate proposed by a motor common carrier of passengers.”.

(4) Section 10706(b)(3) of title 49, United States Code, is amended by redesignating subparagraphs (E) and (F), and any references thereto, as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (D) the following new subparagraphs:

“(E) On and after January 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon any single-line rate proposed by a motor common carrier of passengers. On and after January 1, 1984, no agreement approved under this subsection may provide for discussion of or

voting upon any joint rate proposed by one or more motor common carriers of passengers. This subparagraph shall not apply to any rate applicable to special or charter transportation. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

“(i) any general rate increase or decrease, broad change in tariff structure, or promotional or innovative fare change, as defined by the Commission and subject to such notice requirements as the Commission may specify by regulation, if discussion of such general increase or decrease is limited to industry average carrier costs and intermodal competitive factors and does not include discussion of individual markets or particular single-line rates or joint rates; and

“(ii) publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

“(F) After the effective date of this subparagraph, no agreement approved under this subsection may provide for discussion of or voting upon any rate applicable to special or charter transportation proposed by a motor common carrier of passengers. This subparagraph shall not apply to publication of any such rate.”.

(c) Subsection (b) of section 10706 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

“(5) Notwithstanding any other provision of this subtitle (other than paragraph (3)(F) of this subsection, relating to special and charter transportation of passengers), before January 1, 1983, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of passengers from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, or divisions, except that before January 1, 1983, the Commission may issue regulations which take effect on or after January 1, 1983, to carry out the provisions of paragraph (3)(E) of this subsection.”.

(d) The first sentence of section 10706(c) of title 49, United States Code, is amended by striking out “of property”.

(e)(1) Paragraph (2) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended to read as follows:

“(2)(A) The Study Commission shall make (i) a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and upon the need or lack of need for continued antitrust immunity therefor, and (ii) a full and complete investigation and study of the collective rate-making process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for antitrust immunity therefor. The Study Commission may study the collective rate-making process for single-line or joint-line rates of motor common carriers of passengers. Each such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. Each such

Regulations,  
effective  
date.

49 USC 10706  
note.

Collective  
ratemaking  
process;  
investigation  
and study.

study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

“(B) The Study Commission shall make a full and complete investigation and study of the impact of implementation of the Bus Regulatory Reform Act of 1982 on persons over the age of 60, including those who reside in rural areas and small communities. In particular, the Study Commission shall investigate and study the effect on such persons of the potential termination of routes as a result of implementation of the Bus Regulatory Reform Act of 1982. In making the study required by this subparagraph, the Study Commission shall provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In addition, the Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high quality intrastate motor bus services. Such study shall focus on the impact on existing firms currently providing service, some or all of which is conducted between points wholly within a single State. The Study Commission shall present its conclusions in its final report. Prior to such final report, if the Study Commission finds the existence of conditions that jeopardize the viability of continued intrastate services, it shall immediately notify the Congress and the Interstate Commerce Commission of its findings. If such notice is presented to the Interstate Commerce Commission, it shall give expedited treatment to whatever recommendations are made. The mandate to study the impact on intrastate bus transportation shall be an on-going one throughout the duration of the Study Commission’s existence.”.

Persons over 60, investigation and study.

Notice and hearing.

(2) Paragraph (3) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended—

49 USC 10706 note.

(A) by striking out “ten members” and inserting in lieu thereof “fourteen members”;

(B) by striking out “and” at the end of clause (B); and

(C) by striking out the period at the end of such paragraph and inserting in lieu thereof “; and”; and

(D) by adding at the end of such paragraph the following:

“(D) four members of the public appointed by the President, one who is a motor common carrier of passengers receiving \$3,000,000 or more per year in revenues from motor common carrier of passengers operations, one who is a motor common carrier of passengers receiving less than \$3,000,000 per year in revenues from motor common carrier of passengers operations, and two who are not affiliated with the motor common carrier industry.

No member of the Study Commission who is appointed under clause (C) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of passengers, and no member of the Study Commission who is appointed under clause (D) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of property.”.

(3) Paragraph (4) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended by striking out the first 2 sentences and inserting in lieu thereof the following:

49 USC 10706 note.

“(4) The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of property not later than January 1, 1983, and its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than

Reports to President and Congress.

## Reports.

January 1, 1984. The Study Commission shall, not later than January 1, 1984, submit to the President and the Congress the report required by paragraph (2)(B) of this subsection. Such reports shall include, but not be limited to, the findings and recommendations of the Study Commission. The Study Commission shall cease to exist 6 months after submission of the last of such reports.”.

## Termination.

49 USC 10706  
note.

(4) Paragraph (12) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 808) is amended by striking “\$3,000,000” and inserting in lieu thereof “\$4,000,000”.

49 USC 10706  
note.

(f) Any organization established pursuant to an agreement entered into by motor common carriers of passengers and approved by the Commission prior to the effective date of this subsection under section 10706(c) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such effective date, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

## ZONE OF RATE FREEDOM

SEC. 11. (a) Subsection (d) of section 10708 of title 49, United States Code, is amended by redesignating paragraph (4) of such subsection, and any references thereto, as paragraph (6) and inserting after paragraph (3) the following new paragraphs:

“(4) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any single-line rate proposed by a motor common carrier of passengers, or joint rate proposed by one or more such carriers, applicable to any transportation (other than special or charter transportation) on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

“(A) the carrier or carriers notify the Commission that they wish to have the rate considered pursuant to this subsection; and

“(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 20 percent below the lesser of the rate in effect on the effective date of this paragraph (or, in case of any rate which the carrier or carriers first establish after such date for a service not provided by the carrier or carriers on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

“(5) One year after the effective date of this paragraph, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 15 percent and 25 percent, respectively. Two years after the effective date, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 20 percent and 30 percent, respectively.”.

(b) Paragraph (6) of section 10708(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting after the first sentence the following new sentence: “Evi-

dence that any motor common carrier of passengers established pursuant to this subsection a joint or single-line rate applicable to transportation over any route which is the same as or similar to a joint rate applicable to transportation over such route which such carrier together with one or more other motor common carriers of passengers established pursuant to this subsection shall not be in and of itself sufficient to establish a violation of any such antitrust law.”.

(c) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

“(e) Notwithstanding any other provision of this title, 3 years after the effective date of this subsection, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers on the grounds that such rate is unreasonable on the basis that it is too high or too low, unless the proposed rate is established collectively in accordance with the procedures of an agreement approved by the Commission under section 10706(b) of this title. In publishing and filing a tariff under section 10762 of this title, the carrier shall disclose whether such rate is the result of collective ratemaking procedures pursuant to an agreement approved by the Commission under section 10706(b) of this title.

49 USC 10706.

49 USC 10762.

“(f) Notwithstanding any other provision of this title, an interested party may file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under this section by a motor carrier of passengers. Any such complaint proceeding shall be finally determined by the Commission no later than 90 days after the filing of the complaint.”.

49 USC 11701.

#### RATES FOR SPECIAL AND CHARTER TRANSPORTATION

SEC. 12. (a) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

“(g) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation. Nothing in this subsection shall limit the Commission’s authority to suspend and investigate proposed rates on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.”.

*Ante*, p. 1103.

(b) Section 10762(c)(3) of title 49, United States Code, is amended—

(1) in the second sentence by inserting “and motor common carrier of passengers with respect to special or charter transportation” immediately after “a rail carrier”; and

(2) by adding at the end thereof the following new sentence: “In the case of a motor common carrier of passengers, a proposed rate change resulting in an increased rate or a new rate applicable to special or charter transportation shall not become effective for 30 days after the notice is published, and a proposed rate change resulting in a reduced rate applicable to special or charter transportation shall not become effective for 10 days after the notice is published.”.

## MOTOR CONTRACT CARRIERS

SEC. 13. (a) Section 10923(b)(2) of title 49, United States Code, is amended to read as follows:

“(2) The provisions of paragraph (2) of subsection (a) of this section shall not apply to applications under this section for authority to provide transportation as a motor contract carrier of passengers. The requirement that persons issued permits under this section as motor contract carriers of passengers be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.”

*Post*, p. 1120.

(b) Subsection (e) of section 10925 of title 49, United States Code, is amended—

- (1) by striking out “of property” each place it appears;
- (2) by striking out “section 10922(b)” each place it appears and inserting in lieu thereof “section 10922”; and
- (3) in paragraph (2)—
  - (A) by striking out “transportation”; and
  - (B) by striking out “of the same property” and inserting in lieu thereof “the same type of transportation”.

## BROKERS

SEC. 14. (a) Subsection (a) of section 10924 of title 49, United States Code, is amended by striking out “passengers or”.

(b) Subsection (e) of section 10924 of title 49, United States Code, is amended by striking out “of travelers and”.

(c) Section 10924 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Bonds or  
insurance,  
requirements.

“(f) The Commission may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers.”

(d) Section 10526(a) of title 49, United States Code, is amended—

- (1) by striking out “or” at the end of paragraph (12);
- (2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof “; or”; and
- (3) by adding at the end thereof the following new paragraph:
 

“(14) brokers for motor carriers of passengers, except as provided in section 10924(f) of this title.”

## TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

SEC. 15. Section 10928 of title 49, United States Code, is amended—

- (1) in subsection (a) by striking out “motor carrier of passengers or” each place it appears;
- (2) in subsection (b)(1) by striking out “of property” each place it appears; and
- (3) in subsection (c)(1) by striking out “of property” each place it appears and by inserting immediately after “not more than 90 days” the following: “and, in addition, in the case of a motor carrier of passengers, the Commission may extend such authority for a period of more than 90 days but not more than 180 days if no other motor carrier of passengers is providing transportation to the place or in the area”.

## EXIT POLICY

SEC. 16. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

**“§ 10935. Discontinuing bus transportation in one State**

49 USC 10935.

“(a) When a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of this subchapter, to provide transportation over any route to any point in such State has proposed to discontinue providing transportation over such route to such point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays) and the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over granting such discontinuance or reduction for permission to discontinue such intrastate transportation or to reduce its level of service to a level which is less than one trip per day (excluding Saturdays and Sundays) and the request has been denied (in whole or in part) or such department, agency, or instrumentality has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request, the carrier may petition the Commission for such permission.

49 USC 10922.

“(b) When a petition is filed under subsection (a) of this section, the carrier shall certify that he has notified (1) the Governor of the State in which such transportation is provided, (2) the State authority having jurisdiction over granting discontinuances of transportation by motor common carriers of passengers and reductions in levels of service by such carriers, (3) local governments having jurisdiction over areas which would be affected if such petition is granted, and (4) such other interested persons as the Commission may specify by regulation.

“(c) Any person (including a department, agency, or instrumentality of a State or local government) may object to the Commission to the granting of permission to any motor common carrier of passengers to discontinue or reduce transportation under this section.

Discontinuance  
of service,  
objection.

“(d) If no person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the Commission shall grant such permission at the end of such 20-day period.

“(e)(1)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that such discontinuance or reduction is not consistent with the public interest or that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce.

“(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted, on or before August 1, 1982, authority to provide interstate transportation of passengers.

“(2)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce. For the purposes of this paragraph, continuance of the transportation would not constitute an unreasonable burden on interstate commerce only if discontinuance or reduction of such transportation is not consistent with the public interest and the interstate and intrastate revenues from such service under reasonable pricing practices are not less than the variable costs of providing the transportation proposed to be discontinued or reduced.

“(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted after August 1, 1982, and before the effective date of this section, or is granted on or after such effective date, authority to provide interstate transportation of passengers.

“(3) The Commission shall only grant permission to a carrier to discontinue intrastate transportation over any route to any point under this subsection if such carrier has applied for authority to discontinue its interstate transportation over such route to such point under section 10925(b) of this subchapter and the Commission has granted or will grant such authority.

“(4) If any person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the carrier, within 15 days after the filing of such objection with the Commission, shall furnish to the Commission and to objecting persons—

“(A) an estimate of the annual subsidy required, if any, to continue the service;

“(B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service; and

“(C) such other information as the Commission may require by regulation.

The Commission shall take final action upon such petition not later than 90 days after the date the carrier files such petition.

“(f) Before a discontinuance or reduction in level of service proposed in a petition filed by a carrier under subsection (a) of this section has become effective, the Commission may order the carrier to continue any part of the intrastate transportation in not to

49 USC 10925.

Petition for  
discontinuance  
or reduction.



exceed the 165-day period beginning on the date the carrier files such petition with the Commission.

“(g)(1) In making a finding under subsection (e)(1) of this section, the Commission shall accord great weight to the extent to which interstate and intrastate revenues received for providing the transportation proposed to be discontinued or reduced are less than the variable costs of providing such transportation, including depreciation for revenue equipment. For purposes of the preceding sentence, the carrier filing a petition for permission to discontinue or reduce service shall have the burden of proving the amount of the interstate and intrastate revenues received for providing the transportation and the variable costs of providing the transportation.

“(2) In making a finding under subsection (e)(1) or (e)(2) of this section, the Commission shall consider, to the extent applicable, at least—

“(A) the national transportation policy of section 10101 of this title;

49 USC 10101.

“(B) whether the motor common carrier of passengers has received an offer of, or is receiving, financial assistance to provide the transportation to be discontinued or reduced from a financially responsible person (including a governmental authority); and

“(C) in the case of a petition to discontinue transportation to any point, whether the transportation is the last motor carrier of passenger service to such point and whether a reasonable alternative to such service is available.

“(h) No State or political subdivision thereof and no interstate agency or other agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to discontinuance or reduction in the level of intrastate service by a motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title corresponding to an interstate service initiated pursuant to the provisions of section 10922(c)(4) of this title, except to the extent that notice of discontinuance or reduction in service, not in excess of 30 days, may be required.

49 USC 10521.  
Ante, p. 1103.

“(i) This section shall not apply to any carrier owned or controlled by a State or local government.”

(b) The analysis for subchapter II of chapter 109 of title 49, United States Code, is amended by inserting

“10935. Discontinuing bus transportation in one State.”

after

“10934. Household goods agents.”.

(c) Section 10322(a) of title 49, United States Code, is amended by inserting “10935,” after “10934(c).”.

#### DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

SEC. 17. (a)(1) Section 11501 of title 49, United States Code, is amended by redesignating subsection (e), and any references thereto, as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e)(1) The Commission shall prescribe any rate, rule, or practice applicable to transportation provided entirely in one State by a motor common carrier of passengers providing transportation sub-

49 USC 10521.

ject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

“(A) if the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice for permission to establish such rate, rule, or practice and the request has been denied (in whole or in part) or the State authority has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request; and

“(B) if the Commission finds that the rate, rule, or practice in effect and applicable to such intrastate transportation causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

Rebuttable  
presumption.

“(2) For purposes of paragraph (1)(B) of this subsection, there shall be a rebuttable presumption that—

“(A) any rate, rule, or practice applicable to transportation provided by a motor common carrier of passengers entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds—

“(i) that such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers;

“(ii) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice such carrier does not receive revenues from such transportation which exceed the variable costs of providing such transportation; or

“(iii) that the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice failed to act finally (in whole or in part) on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request; and

“(B) any rate applicable to transportation entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds that the most recent general rate increase applicable to transportation provided by motor common carriers of passengers in such State is less than the most recent general rate increase applicable to interstate transportation provided by motor common carriers of passengers under this subtitle.

Application,  
filing.

“(3)(A) A motor common carrier of passengers must file an application with the Commission for prescription under this subsection of a rate, rule, or practice applicable to transportation provided entirely in one State by such carrier. When such application is filed with the Commission, the carrier shall certify that he has notified (i) the Governor of such State, (ii) the department, agency, or instrumentality of such State which denied, or failed to take action on, the request of such carrier related to such rate, rule, or practice, and (iii) such other interested persons as the Commission may specify by regulation. The Commission shall take final action on any such application not later than 60 days after such application is filed with the Commission.

“(B) The Commission shall establish, by regulation, procedures for processing applications under this subsection.

“(4) This subsection shall not apply to any carrier owned or controlled by a State or local government.

"(5) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation provided by motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title on an authorized interstate route or relating to the implementation of any reduction in the rates for such transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This paragraph shall not apply to intrastate commuter bus operations.

49 USC 10521.

"(6)(A) No motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission may charge or collect a rate for intrastate service provided on an authorized interstate route which constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title.

*Ante*, p. 1103.

"(B) When the Commission decides, upon complaint by any person, that a reduction in a rate charged or collected by such a motor common carrier of passengers for intrastate service provided on an authorized interstate route constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title, the Commission shall prescribe the rate applicable to such service."

(2) Subsection (f) of section 11501 of title 49, United States Code, as redesignated by paragraph (1) of this subsection, is amended by inserting "(1)" immediately after "take action" and by inserting "or (2) with respect to a rate, rule, or practice of a motor common carrier of passengers, in accordance with the procedures established by the Commission under subsection (e)(3)(B) of this section" immediately after "a full hearing".

(b) Section 10322(a) of title 49, United States Code, is amended by inserting "or 11501(e)" immediately after "section 10934".

49 USC 11501  
note.

(c) The Interstate Commerce Commission, in consultation with each national association representing State departments, agencies, and instrumentalities having jurisdiction over motor common carrier transportation of passengers, shall cooperate with each such department, agency, or instrumentality of a State for the purpose of establishing standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers who provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of subtitle IV of title 49, United States Code, which are—

49 USC 10521.

(1) to the extent feasible, uniform among the States; and

(2) consistent with the standards and procedures established by the Interstate Commerce Commission under such subtitle for regulation of interstate transportation provided by motor common carriers of passengers.

(d) It is the sense of Congress that each State should revise its standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers to conform such standards and procedures to the standards and procedures for rates, rules, and practices applicable to interstate transportation provided by motor carriers of passengers not later than 2 years after the effective date of this section.

State  
standards  
and pro-  
cedures,  
revision.  
49 USC 11501  
note.

Report to  
Congress.  
49 USC 11501  
note.

(e) Not later than 30 months after the effective date of this section, the Interstate Commerce Commission shall report to the Congress on the results of its efforts to establish uniform standards and procedures applicable to motor common carrier of passengers rates, rules, and practices.

#### FINANCIAL RESPONSIBILITY

Regulations.  
49 USC 10927  
note.

SEC. 18. (a) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability and property damage for the transportation of passengers for hire by motor vehicle in the United States from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.

(b) The minimal level of financial responsibility established by the Secretary under subsection (a) of this section—

(1) for any vehicle with a seating capacity of 16 passengers or more shall not be less than \$5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than \$2,500,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service; and

(2) for any vehicle with a seating capacity of 15 passengers or less shall not be less than \$1,500,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than \$750,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(c)(1) If, at the end of the one-year period beginning on the effective date of this section, the Secretary has not established regulations to require minimal levels of financial responsibility as required by subsection (a) of this section for any class of transportation of passengers, the levels of financial responsibility for such class of transportation shall be the \$5,000,000 amount set forth in subsection (b)(1) of this section in the case of motor vehicles with a seating capacity of 16 passengers or more and the \$1,500,000 amount set forth in subsection (b)(2) of this section in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount under this section.

(2) Notwithstanding the provisions of subsection (b) of this section, the Secretary may only make reductions in the \$5,000,000 and \$1,500,000 amounts set forth in such subsection for the two-year period beginning on the 366th day following the effective date of this section or any part of such period.

(d) Financial responsibility may be established under this section by any one or combination of the following methods acceptable to the Secretary: evidence of insurance, including high self-retention,

guarantee, or surety bond. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(e)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty of not more than \$10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

Violation;  
penalty.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) This section shall not apply—

(1) to a motor vehicle transporting only school children and teachers to or from school;

(2) to a motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points; and

(3) to a motor vehicle carrying less than 16 individuals in a single, daily round trip to commute to and from work.

(g) For purposes of this section, the term—

Definitions.

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" means a State of the United States and the District of Columbia.

(h) Section 10927(a)(1) of title 49, United States Code, is amended by inserting immediately after "Motor Carrier Act of 1980" the following: ", in the case of a motor carrier of property, or section 18 of the Bus Regulatory Reform Act of 1982, in the case of a motor carrier of passengers".

*Ante*, p. 1120.

#### SECURITIES

SEC. 19. (a) Section 11302 of title 49, United States Code, and the item relating to such section in the analysis for chapter 113 of such title, are repealed.

Repeal.

(b) Section 11348 of title 49, United States Code, is amended by striking out "11302," each place it appears.

(c) Section 11911(a) of title 49, United States Code, is amended by striking out "or of a person to which that section is made applicable by section 11302(a) of this title".

(d) Section 3(a)(6) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended by striking out "Any security issued by a motor carrier

the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any” and by inserting in lieu thereof “Any”.

#### TAX DISCRIMINATION

SEC. 20. (a) Section 11503a(a)(3) of title 49, United States Code, is amended by striking out “of property”.

(b) Section 11503a(c)(1) of title 49, United States Code, is amended by striking out “other commercial and industrial property” and inserting in lieu thereof “such other property”.

#### MERGER PROCEDURE

SEC. 21. (a)(1) Section 11341(a) of title 49, United States Code, is amended by inserting “or exempted by” immediately after “approved by”.

(2) The third sentence of section 11341(a) of title 49, United States Code, is amended by inserting “approved or exempted” immediately after “participating in that”.

(b) Section 11343 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

“(e)(1) Notwithstanding any provisions of this title, the Interstate Commerce Commission, in a matter related to a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, may exempt a person, class of persons, transaction, or class of transactions from the merger, consolidation, and acquisition of control provisions of this subchapter if the Commission finds that—

“(A) the application of such provisions is not necessary to carry out the transportation policy of section 10101 of this title; and

“(B) either (i) the transaction is of limited scope, or (ii) the application of such provisions is not needed to protect shippers from the abuse of market power.

“(2) At least 60 days before any transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter may take effect, each carrier intending to participate in such transaction shall file with the Commission a notice of its intention to participate in such transaction and shall give public notice of such intention. The Commission shall prescribe the information to be contained in such notices, including the nature and scope of the transaction.

“(3) The Commission, on its own initiative or on complaint, may revoke an exemption granted under this subsection, to the extent it specifies, when it finds that application of the provisions of this section to the person, class of persons, or transportation is necessary to carry out the transportation policy of section 10101 of this title.

“(4) If the Commission, on its own initiative, finds that employees of any carrier intending to participate in a transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter are or will be adversely affected by such transaction or if employees of such carrier adversely affected by such transaction file a complaint concerning such transaction with the Commission, the Commission shall revoke such exemption to the extent the Commission deems necessary to review and address the adverse effects on such employees.”.

49 USC 10521.

49 USC 10101.

Notices.

(c) The heading of section 11345a of title 49, United States Code, is amended to read as follows:

**“§ 11345a. Consolidation, merger, and acquisition of control: motor carrier procedure”.**

(d) Subsection (a) of such section is amended by striking out “of property”.

(e) The item relating to section 11345a in the analysis for subchapter III of chapter 113 of title 49, United States Code, is amended to read as follows:

“11345a. Consolidation, merger, and acquisition of control: motor carrier procedure.”

(f) Section 11344(b) of title 49, United States Code, is amended by redesignating paragraphs (1), (2), (3), (4), and (5) (and any references thereto) as subparagraphs (A), (B), (C), (D), and (E), respectively, by inserting “(1)” immediately before “In a proceeding”, and by adding at the end thereof the following new paragraph:

“(2) In a proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, the Commission shall consider at least the following:

49 USC 10521.

“(A) the effect of the proposed transaction on the adequacy of transportation to the public.

“(B) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

“(C) the total fixed charges that result from the proposed transaction.

“(D) the interest of carrier employees affected by the proposed transaction.”.

(g) Section 11344(d) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: “The provisions of this subsection do not apply to any proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.”.

**SAFETY ENFORCEMENT**

SEC. 22. (a) Section 10925(d) of title 49, United States Code, is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, upon petition by the Secretary of Transportation, the Commission may suspend a certificate or permit of a motor carrier of passengers if the Commission finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.”.

49 USC 10321.  
5 USC 551.

(b) Paragraph (3) of section 10925(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting immediately before the period at the end thereof the following: “or, in the case of a suspension under paragraph (2) of this subsection, until the Commission revokes such suspension”.

## ILLEGAL OPERATIONS

SEC. 23. Section 11901(g) of title 49, United States Code, is amended by inserting immediately before the period at the end of the first sentence the following: “; except that, in the case of a person who does not have authority under this subtitle to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 10921 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be more than \$1,000 for each violation and \$500 for each additional day the violation continues”.

49 USC 10921.

## ADMINISTRATIVE ASSISTANCE

SEC. 24. Section 10321(b) of title 49, United States Code, is amended—

(1) by striking out “and” at the end of clause (2);

(2) by striking out the period at the end of such section and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new clause:

“(4) consistent with the transportation policy of section 10101 of this title, provide administrative assistance to small motor common carriers of passengers and local governments in preparing for proceedings under sections 10922(c)(2), 10935, and 11501(e) of this title.”.

49 USC 10101.

*Ante*, pp. 1103,  
1115, 1117.

## STUDY OF CITIZEN BAND RADIOS ON BUSES

SEC. 25. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the use of citizen band radios on motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, by the operators of such vehicles. Such study shall determine, at a minimum, the following:

49 USC 11111  
note.

(1) the effect on safety if such operators are authorized to use such radios; and

(2) the effect on safety, health, and convenience of the passengers of such vehicles if such operators are authorized to use such radios.

Report to  
Secretary and  
Congress.

49 USC 11111  
note.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit to the Secretary and the Congress, within one year after entering into arrangements with the National Academy of Sciences for conducting the study under subsection (a) of this section, a report on the results of such study along with its recommendations concerning whether operators of motor vehicles providing transportation of passengers should be allowed to use citizen band radios. The Secretary shall furnish to such Academy, at its request, any information which such Academy deems necessary for the purpose of conducting such study.

Rulemaking  
procedure.  
49 USC 11111  
note.

(c) Not later than 60 days after the National Academy of Sciences submits its report to the Secretary of Transportation under subsection (b) of this section, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether operators of motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II



of chapter 105 of title 49, United States Code, should be allowed to use citizen band radios in such vehicles. In making such determination, the Secretary of Transportation shall give substantial weight to the recommendations and conclusions of the National Academy of Sciences. Such rulemaking proceeding shall be completed not later than 120 days after such proceeding is commenced. If the Secretary issues a rule or regulation which recommends that operators of such vehicles be allowed to install temporarily and operate citizen band radios in such vehicles, the Secretary of Transportation shall issue regulations establishing guidelines for the use of such radios in such vehicles in order to ensure that the public safety is adequately protected. 49 USC 10521.

(d)(1) Subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new section:

**“§ 11111. Use of citizen band radios on buses**

49 USC 11111.

“(a)(1) A motor carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall allow the operator of any motor vehicle providing such transportation to temporarily install and operate a citizen band radio in such vehicle if the Secretary of Transportation issues a rule or regulation which recommends that operators of such vehicles be allowed to temporarily install and operate such radios in such vehicles. 49 USC 10521.

“(2) Citizen band radios installed and operated in motor vehicles providing transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be installed and operated in accordance with the guidelines established by the Secretary of Transportation under section 25(c) of the Bus Regulatory Reform Act of 1982.

*Ante*, p. 1124.  
Regulations.

“(b) The Commission shall issue such regulations as it considers necessary to carry out this section.”

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by inserting

“11111. Use of citizen band radios on buses.”

after

“11110. Household goods carrier operations.”.

(e) Section 11702(a)(2) of title 49, United States Code, is amended by inserting “or 11111” after “11109”.

(f) This section shall not be construed to provide new spending authority within the meaning of section 401(c)(2)(A) of the Congressional Budget Act of 1974.

31 USC 1351.

**BUS TERMINAL STUDY**

SEC. 26. (a) The Secretary of Transportation and the Interstate Commerce Commission shall conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in section 10101 of title 49, United States Code. A report on the results of such investigation and study, including legislative recommendations, shall be submitted to the President and Congress not later than December 31, 1983.

Report to  
President  
and Congress.

(b) The report under this section shall include an analysis of at least the following:

- (1) the pattern of ownership of bus terminals, including public and private ownership;
- (2) the desirability of terminals for more than one mode of transportation and their impact on urban development;
- (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

## EMPLOYEE PROTECTION

Reemployment  
rights.  
49 USC 10935  
note.

SEC. 27. (a)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of priority reemployment, in his or her occupational specialty, by such carrier at such time as such carrier is hiring additional employees.

(2) Any motor common carrier of passengers hiring additional employees shall have a duty to hire an individual eligible for protection under this section, in his or her occupational specialty, before hiring any other individual if such individual—

(A) was terminated previously by such carrier;

(B) has applied for a vacant position for which such carrier is accepting applications; and

(C) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(b)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of consideration for employment, in his or her occupational specialty, by any other motor common carrier of passengers who is hiring additional employees.

(2) Each motor common carrier of passengers who is hiring additional employees shall have a duty to consider for employment, in his or her occupational specialty, an individual who is eligible for protection under this section if such individual—

(A) has applied for a vacant position for which such carrier is accepting applications; and

(B) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(c) An individual (other than a member of a board of directors or an officer of a corporation) who was employed by a motor common carrier of passengers for the 2-year period ending on the date of enactment of this Act shall be eligible for protection under this section if, upon application of such individual, the Commission determines that the employment of such individual has been terminated by a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of title 49, United States Code, to provide transportation over any route to any point in such State as a result of such carrier—

(1) discontinuing (A) interstate service over such route under section 10925(b) of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State;

49 USC 10925.  
*Ante*, p. 1115.

(2) reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State; or

49 USC 10101.  
*Ante*, p. 1115.

(3) substantially reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 11501(e) of such title, or (ii) under the laws of such State.

*Ante*, p. 1117.

In a proceeding to determine whether an individual is eligible for protection under this section, it shall be the obligation of the individual whose employment has been terminated by a motor common carrier of passengers to identify to the Commission the discontinuance or reduction which such individual alleges resulted in such termination and to specify the pertinent facts; and it shall be the obligation of any carrier contesting the eligibility of the individual for protection under this section to prove that the discontinuance or reduction was not a contributing factor causing such termination.

(d) The Commission shall establish, maintain, and periodically publish a comprehensive list of jobs available with class I motor carriers of passengers. Such list shall include that information and detail, such as job descriptions and required skills, the Commission deems relevant and necessary. In addition to publishing the list, the Commission shall make every effort to assist individuals eligible for protection under this section in finding other available employment. The Commission may require each class I motor carrier of passengers to file with the Commission the reports, data, and other information necessary to fulfill the duties of the Commission under this subsection.

Job list,  
publication.

(e) For the purposes of this section:

(1) A motor common carrier of passengers shall not be considered to be hiring additional employees when it recalls any of its own furloughed employees.

(2) An individual who is furloughed by a motor common carrier of passengers and who still has a right of recall by such carrier shall not be considered to be terminated.

(3) The term "Commission" means the Interstate Commerce Commission.

"Commission."

(4) The term "motor common carrier of passengers" means a person who has authority under section 10922 of title 49, United States Code, to provide transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title.

"Motor common  
carrier of  
passengers."

(5) The term "class I motor carrier of passengers" means a motor common carrier of passengers having annual gross revenues from motor common carrier of passengers operations in excess of \$3,000,000.

49 USC 10521.

"Class I motor  
carrier of  
passengers."

(f) Nothing in this section shall be construed to affect (1) an affirmative action plan or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan.

(g) This section shall not apply (1) to any carrier owned or controlled by a State or local government, and (2) to any periodic discontinuance or reduction in motor carrier of passenger service which is seasonal in nature.

Rules and  
regulations.

(h) The Commission shall issue such rules and regulations as are necessary to carry out this section. Initial rules and regulations shall be promulgated within 6 months after the effective date of this section.

Termination.

(i) The provisions of this section shall terminate on the last day of the 12-year period beginning on the effective date of this section.

#### PUBLICATION OF COMMISSION ACTIONS

SEC. 28. (a) Section 10322(b)(3) of title 49, United States Code, is amended by striking "in the Federal Register".

(b) Section 10328(b) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by amending paragraph (1), as so redesignated, by striking out "that is, or is proposed to be, provided in a State" and by striking out all after "interested persons" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following:

"(2) The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as a motor or water common or contract carrier or freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceedings, that such method of providing notice would not be unduly burdensome to the public."

Notice of  
applications.  
5 USC 553.

49 USC 10922-  
10924, 10928.

#### GENDER-NEUTRAL TERMINOLOGY

SEC. 29. (a) Section 10722(c)(4) of title 49, United States Code, is amended by striking out "newsboy" and inserting in lieu thereof "newspaper carrier".

(b) Section 10722(d)(1)(B) of title 49, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(c) Section 10723(b)(1)(C) of title 49, United States Code, is amended to read as follows:

"(C) an individual traveling on behalf of a nonprofit organization which provides recreational, housing or other services and benefits for the general welfare of employees of common carriers."

(d) Section 11504(c)(3) of title 49, United States Code, is amended by striking out "seaman" and inserting in lieu thereof "sailor".

(e) Section 11905 of title 49, United States Code, is amended by striking out "linemen" and inserting in lieu thereof "line maintainers".

#### EXEMPT MOTOR CARRIER TRANSPORTATION

SEC. 30. Section 10525 of title 49, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

“(e) Notwithstanding the provisions of this section, the Commission has no jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from the jurisdiction of the Commission under this subsection and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt from the jurisdiction of the Commission under section 10523 of this title.”.

49 USC 10523.

#### EFFECTIVE DATE

SEC. 31. (a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect on the 60th day after the date of enactment of this Act.

49 USC 10101 note.

(b) The amendment made by section 10(e)(4) of this Act shall take effect on October 1, 1982.

*Ante*, p. 1109.

(c) The provisions of sections 6(g) and 30 of this Act shall take effect on the date of enactment of this Act.

*Ante*, p. 1103, 1128.

Approved September 20, 1982.

#### LEGISLATIVE HISTORY—H.R. 3663:

HOUSE REPORTS: No. 97-334 (Comm. on Public Works and Transportation) and No. 97-780 (Comm. of Conference).

SENATE REPORT No. 97-411 (Comm. on Commerce, Science, and Transportation).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 19, considered and passed House.

Vol. 128 (1982): June 30, considered and passed Senate, amended.

Aug. 19, House agreed to conference report.

Aug. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS: Vol. 18, No. 38 (1982): Sept. 20, Presidential statement.

Public Law 97-262  
97th Congress

Joint Resolution

Sept. 22, 1982  
[S.J. Res. 250]

To provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

Whereas the labor dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas all of the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and the parties have resorted to self help;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers;

Whereas all of the other negotiations for a national agreement by the rail carriers and the representatives of other railroad employees have been successfully completed, including the negotiations of the carriers and the United Transportation Union that were resolved through the Report and Recommendations of Presidential Emergency Board Numbered 195; and

Whereas the Recommendations of Presidential Emergency Board Numbered 194 for settlement of this dispute have led to agreement of the parties on all but a single issue, and the recommendation on that issue would preserve the employees' collective bargaining rights within the peaceful procedures of the Railway Labor Act: Now, therefore, in order to preserve the national interest in essential transportation services, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, consistent with the purposes of the Railway Labor Act to avoid any labor dispute that threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service—

(1) the parties to the dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers shall take all necessary steps to restore service, and the status quo of the parties shall return to that which was in effect prior to 12:01 antemeridian of September 19, 1982, which status shall remain in effect through June 30, 1984, and which status shall be subject to the provisions of paragraph (2) of this joint resolution; and

(2) the Report and Recommendations of the Presidential Emergency Board Numbered 194, dated August 19, 1982 (includ-

Railway labor-  
management  
dispute,  
resolution  
45 USC 151.

ing the recommendations regarding moratorium issues), shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), and shall be effective for the period from April 1, 1981, through June 30, 1984: *Provided*, That nothing in this joint resolution shall prevent any mutual agreement by the parties to implement the terms and conditions established by this joint resolution.

SEC. 2. This resolution shall take effect immediately upon enactment. Effective date.

Approved September 22, 1982.

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LEGISLATIVE HISTORY—S. J. Res. 250 (H. J. Res. 600):

HOUSE REPORT No. 97-853 accompanying H. J. Res. 600 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 21, considered and passed Senate.

Sept. 22, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 38 (1982):

Sept. 22, Presidential statement.

Public Law 97-263  
97th Congress

## An Act

Sept. 24, 1982  
[H.R. 1710]

To authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives.

Law Revision  
Counsel of the  
House of  
Representatives.  
Use of frank for  
official mail;  
authorization.*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That title 39, United States Code, is amended—

(1) by inserting “the Law Revision Counsel of the House of Representatives,” immediately before “and the Senate Legal Counsel” in section 3210(b)(1);

(2) by inserting “the Law Revision Counsel of the House of Representatives,” immediately before “or the Senate Legal Counsel” in section 3210(b)(2);

(3) by inserting “the Law Revision Counsel of the House of Representatives,” immediately before “and the Senate Legal Counsel” in section 3216(a)(1)(A); and

(4) by inserting “the Law Revision Counsel of the House of Representatives,” immediately before “or the Senate Legal Counsel” in section 3219.

Approved September 24, 1982.

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LEGISLATIVE HISTORY—H.R. 1710:HOUSE REPORT No. 97-314 (Comm. on Post Office and Civil Service).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 16, considered and passed House.

Vol. 128 (1982): Sept. 14, considered and passed Senate.



Public Law 97-264  
97th Congress

An Act

To amend the Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes.

Sept. 24, 1982  
[S. 2582]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a)(1) the first section of the Act entitled "An Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes", approved August 5, 1955 (69 Stat. 533), is amended in the second sentence thereof by striking out "(3)" and all that follows up to (but not including) the period, and inserting in lieu of the matter stricken the following: "(3) amounts equal to the interest earned on moneys in the fund which are invested in public debt securities pursuant to the succeeding sentence".

Permanent  
Committee for  
the Oliver  
Wendell Holmes  
Devise, fund.  
Interest rate  
adjustment.

(2) The first section of such Act is further amended by adding at the end thereof the following new sentence: "Moneys in the fund shall be invested by the Secretary of the Treasury in public debt securities in accordance with specifications, as to maturity of security and amount to be invested, prescribed by the Permanent Committee for the Oliver Wendell Holmes Devise."

(b) Section 5 of such Act is amended by inserting immediately after the first sentence thereof the following new sentence: "The Committee is further authorized to receive royalties or other income that is generated by the sale of its publications or which otherwise becomes payable to the fund."

69 Stat. 534.

SEC. 2. The amendments made by subsection (a) of the first section of this Act shall be effective in the case of fiscal years beginning after September 30, 1982.

Effective date.

Approved September 24, 1982.

LEGISLATIVE HISTORY—S. 2582:

HOUSE REPORT No. 97-752 (Comm. on House Administration).  
SENATE REPORT No. 97-431 (Comm. on Rules and Administration).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 9, considered and passed Senate.  
Sept. 13, considered and passed House.

Public Law 97-265  
97th Congress

Joint Resolution

Sept. 24, 1982  
[S.J. Res. 186]

To authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week".

Whereas cystic fibrosis is the number one genetic killer of children in America, and between twenty thousand and forty thousand children and young adults in this country have cystic fibrosis; and Whereas public knowledge about cystic fibrosis contributes to early detection and treatment of the disease and to improved understanding about the symptoms of cystic fibrosis; and Whereas increased national awareness of cystic fibrosis and of the young people whose lives are affected by the disease stimulates public concern and increased attention to research seeking control and cure: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week of September 19 through 25, 1982, is designated as "National Cystic Fibrosis Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved September 24, 1982.

National  
Cystic Fibrosis  
Week.

LEGISLATIVE HISTORY—S.J. Res. 186:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Apr. 20, considered and passed Senate.  
Sept. 21, considered and passed House.

Public Law 97-266  
97th Congress

Joint Resolution

To designate September 1982 as "National Sewing Month".

Sept. 24, 1982  
[S.J. Res. 205]

Whereas the American Home Sewing Association is sponsoring a first industrywide promotion effort to increase consumer sewing education and family sewing participation; and  
Whereas over fifty million consumers sew at home and over forty million citizens sew at least part of their wardrobe; and  
Whereas the home sewing industry generates over \$3,500,000,000 in sales annually for the United States economy; and  
Whereas unnumbered careers in fashion, retail merchandising, fashion design, interior design, patternmaking, and textile design and parts of the garment industry have had their genesis in a seventh or eighth grade home economics sewing class: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the month of September 1982 is designated "National Sewing Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

National Sewing  
Month.

Approved September 24, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 205:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 14, considered and passed Senate.  
Sept. 21, considered and passed House.

Public Law 97-267  
97th Congress

An Act

Sept. 27, 1982  
[S. 923]

To amend chapter 207 of title 18, United States Code, relating to pretrial services.

Pretrial Services  
Act of 1982.  
18 USC 3141  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Pretrial Services Act of 1982".

SEC. 2. Section 3152 of title 18, United States Code, is amended to read as follows:

**"§ 3152. Establishment of pretrial services**

"(a) On and after the date of the enactment of the Pretrial Services Act of 1982, the Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise (to such extent and in such amounts as are provided in appropriation Acts), for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by a chief pretrial services officer selected under subsection (c) of this section.

"(b) Beginning eighteen months after the date of the enactment of the Pretrial Services Act of 1982, if an appropriate United States district court and the circuit judicial council jointly recommend the establishment under this subsection of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title."

SEC. 3. Section 3153 of title 18, United States Code, is amended to read as follows:

**"§ 3153. Organization and administration of pretrial services**

"(a)(1) With the approval of the district court, the chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

Position  
requirements  
and  
compensation  
rate.

18 USC 3654.

"(2) The chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(b) The chief probation officer in all districts in which pretrial services are established under section 3152(a) of this title shall designate personnel appointed under chapter 231 of this title to perform pretrial services under this chapter.

18 USC 3651  
*et seq.*

"(c)(1) Except as provided in paragraph (2) of this subsection, information obtained in the course of performing pretrial services functions in relation to a particular accused shall be used only for the purposes of a bail determination and shall otherwise be confidential. Each pretrial services report shall be made available to the attorney for the accused and the attorney for the Government.

Information  
confidentiality.

"(2) The Director shall issue regulations establishing the policy for release of information made confidential by paragraph (1) of this subsection. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

Regulations.

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information made confidential under paragraph (1) of this subsection is not admissible on the issue of guilt in a criminal judicial proceeding unless such proceeding is a prosecution for a crime committed in the course of obtaining pretrial release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial services were provided."

SEC. 4. Section 3154 of title 18, United States Code, is amended to read as follows:

#### "§ 3154. Functions and powers relating to pretrial services

"Pretrial services functions shall include the following:

"(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other person or the community, and recommend appropriate release conditions for such individual.

"(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3146(e) or section 3147 of this chapter.

18 USC 3146,  
3147.

"(3) Supervise persons released into its custody under this chapter.

"(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released to the custody of providers of pretrial services or under the supervision of providers of pretrial services, and any danger that any such person may come to pose to any other person or the community, and recommend appropriate modifications of release conditions.

"(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

"(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

"(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

"(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(10) To the extent provided for in an agreement between a chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, or the chief probation officer in all other districts, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

"(12) Perform such other functions as specified under this chapter."

SEC. 5. Section 3155 of title 18, United States Code, is amended to read as follows:

#### "§ 3155. Annual reports

"Each chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, and each chief probation officer in all other districts, shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28 a report on the administration and operation of the pretrial services for the previous year."

SEC. 6. The table of sections for chapter 207 of title 18, United States Code, is amended by striking out the item relating to section 3152 and all that follows through the item relating to section 3155 and inserting in lieu thereof the following:

18 USC app.

Report to  
congressional  
committee.  
28 USC 604.

"3152. Establishment of pretrial services.

"3153. Organization and administration of pretrial services.

"3154. Functions and powers relating to pretrial services.

"3155. Annual reports."

SEC. 7. Section 604(a) of title 28, United States Code, is amended by—

- (1) striking out "agencies" in paragraph (9);
- (2) striking out "for pretrial services agencies" and inserting in lieu thereof "providing pretrial services" in paragraph (10);
- (3) by striking out "pretrial service agencies" in paragraph (11) and inserting "offices providing pretrial services" in lieu thereof; and
- (4) by striking out "pretrial services agencies" in paragraph (12) and inserting "offices providing pretrial services" in lieu thereof.

SEC. 8. During the period beginning on the date of enactment of this Act and ending eighteen months after the date of the enactment of this Act, the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this Act may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under chapter 207 of title 18 of the United States Code.

18 USC 3152  
note.

*Ante*, p. 1136.

SEC. 9. (a) There are authorized to be appropriated, for the fiscal year ending September 30, 1984, and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the functions and powers of pretrial services established under section 3152(b) of title 18, United States Code.

18 USC 3141  
*et seq.*

Appropriation  
authorization.  
18 USC 3152  
note.

(b) There are authorized to be appropriated for the fiscal year ending September 30, 1983, and the fiscal year ending September 30, 1984, such sums as may be necessary to carry out the functions and powers of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this Act.

Approved September 27, 1982.

#### LEGISLATIVE HISTORY—S. 923 (H.R. 3481):

HOUSE REPORTS: No. 97-56 accompanying H.R. 3481 (Comm. on the Judiciary) and No. 97-792 (Comm. of Conference).

SENATE REPORT No. 97-77 (Comm. on the Judiciary).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): June 18, considered and passed Senate.

Vol. 128 (1982): May 11, H.R. 3481 considered and passed House; proceedings vacated and S. 923, amended, passed in lieu.

Aug. 20, Senate agreed to conference report.

Sept. 15, House agreed to conference report.

Public Law 97-268  
97th Congress

An Act

Sept. 27, 1982  
[H.R. 3620]

Transferring certain Federal property to the city of Hoboken, New Jersey.

City of Hoboken,  
N.J.; transfer of  
certain Federal  
property.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the General Services Administration shall, for and on behalf of the United States, transfer for the fair market value as determined by the General Services Administration under the guidelines set forth in this Act, at a price to be negotiated, as is and without warranty of any kind, to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the real property described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, except that the following property may not be transferred under this section—

45 Stat. 1652.

(a) the property transferred to the Department of the Treasury by the Second Deficiency Act, fiscal year 1929,

(b) the property excluded by the second paragraph of section 1 of the Act of April 19, 1930 (46 Stat. 220), and

(c) the property beginning at a point in the easterly line of River Street, distant 10 feet southerly from the intersection formed by the northerly line of Second Street extended with the easterly line of River Street, running thence; north 13 degrees 04 minutes east and along the easterly line of River Street a distance of 250.20 feet to a point, thence south 76 degrees 56 minutes east a distance of 108 feet to a point, thence south 13 degrees 04 minutes west and parallel to River Street a distance of 154.62 feet to a point of curvature, thence on a curve to the right having a radius of 256 feet and an arc distance of 97.95 feet to a point, thence north 76 degrees 56 minutes west and parallel to the second course a distance of 89.49 feet to a point in the easterly line of River Street, said point being the point or place of beginning. Said parcel lying in city block 231 and being a part of lot 3 as shown on the official assessment map of the city of Hoboken, Hudson County, New Jersey; concurrent with a transfer of title to said real property, the city of Hoboken, New Jersey shall agree to assume sole responsibility with respect to said property and to indemnify and hold harmless the United States against any obligation, past, present, or future, with respect to said property.

Fair market  
value  
determination.

SEC. 2. In making its determination of fair market value, the General Services Administration shall recognize that the fair market value of the property is determined by the market in which it shall be sold, with the city of Hoboken being the only potential purchaser. The General Services Administration shall make every effort to expedite the sale and transfer of the property to the city of Hoboken, recognizing the hardship which would result in any undue delay in lengthy negotiations. The General Services Administration shall give full consideration to the right of the Federal Government to be compensated for the property while considering the city of



Hoboken's ability to pay for the property. Furthermore, the General Services Administration shall give consideration and recognition to whatever funds and costs the Federal Government has invested in the property. The General Services Administration shall also give consideration to the fact that the city of Hoboken has been deprived of tax revenue from the property since its acquisition by the United States, in 1917, but has been required, despite its loss of tax revenue, to provide municipal services to the property.

SEC. 3. The Act of April 19, 1930 (46 Stat. 219), and the Act of June 21, 1938 (52 Stat. 833), are repealed. Repeals.

Approved September 27, 1982.

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**LEGISLATIVE HISTORY—H.R. 3620:**

HOUSE REPORT No. 97-421 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 97-521 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 16, 18, considered and passed House.

Aug. 19, considered and passed Senate, amended.

Sept. 14, House concurred in Senate amendments.

Public Law 97-269  
97th Congress

An Act

Sept. 27, 1982  
[H.R. 6068]

To authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Intelligence and  
intelligence-  
related  
activities,  
appropriations  
authorization.  
Intelligence  
Authorization  
Act for Fiscal  
Year 1983.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That titles I, II, III, IV, V, and VII may be cited as the “Intelligence Authorization Act for Fiscal Year 1983”.

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1983, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 6068 of the Ninety-seventh Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the schedule, within the executive branch.

Availability to  
congressional  
committees and  
President.  
Distribution.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF  
PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1983, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM  
ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 104. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1983 the sum of \$12,125,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1983 the sum of \$15,400,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and ten full-time personnel as of September 30, 1983. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1983, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1983, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Personnel detail.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS  
CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1983, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

95 Stat. 1153.  
Post, p. 1154.

### TITLE III CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1983 the sum of \$91,300,000.

### TITLE IV—SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1982

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence Authorization Act for Fiscal Year 1982 (Public Law 97-89; 95 Stat. 1150), funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the United States Government. The amounts authorized to be appropriated under the preceding sentence are those specified for that purpose in the classified Schedule of Authorizations described in section 102.

#### CEILING ON THE EMPLOYMENT OF CIVILIAN PERSONNEL BY THE CENTRAL INTELLIGENCE AGENCY

SEC. 402. Section 102 of the Intelligence Authorization Act for Fiscal Year 1982 (95 Stat. 1150) is amended—

- (1) by striking out in the first sentence “The” and inserting in lieu thereof “(a) Except as provided in subsection (b), the”; and
- (2) by adding at the end thereof the following:

“(b) The Director of Central Intelligence may authorize the employment of civilian personnel by the Central Intelligence Agency in excess of the number authorized by subsection (a) when he determines that such action is necessary to the performance of important intelligence functions, except that such additional number may not exceed two percent of the total number authorized for the Central Intelligence Agency by such subsection.

“(c) The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any authorization to increase civilian personnel of the the Central Intelligence Agency under subsection (b).”.

### TITLE V—PROVISIONS RELATED TO INTELLIGENCE AGENCIES

#### UNAUTHORIZED USE OF DEFENSE INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 501. (a) Title 10, United States Code, is amended by inserting after chapter 7 the following new chapter:

#### “CHAPTER 8—DEFENSE AGENCIES

“Sec.

“191. Unauthorized use of Defense Intelligence Agency name, initials, or seal.

**“§ 191. Unauthorized use of Defense Intelligence Agency name, initials, or seal** 10 USC 191.

“(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words ‘Defense Intelligence Agency’, the initials ‘DIA’, the seal of the Defense Intelligence Agency, or any colorable imitation of such words, initials or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use in approved, endorsed, or authorized by the Secretary of Defense.

“(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.”.

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 7 the following new item:

“8. Defense Agencies..... 191”.

**AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES**

SEC. 502. (a) Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding subsection (e) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)), the provisions of section 111 of such Act relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.”.

(b) Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of enactment of this Act.

50 USC 403c  
note.

**TITLE VI—RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES**

**SHORT TITLE**

SEC. 601. This title may be cited as the “Central Intelligence Agency Spouses’ Retirement Equity Act of 1982”.

Central  
Intelligence  
Agency Spouses’  
Retirement  
Equity  
Act of 1982.  
50 USC 403 note.

**ANNUITANTS**

SEC. 602. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

- "Former spouse."
- (1) by inserting "former spouses," after "including surviving wives and husbands,"; and
- (2) by adding at the end thereof the following:
- "(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this Act, at least five years of which were spent outside the United States by both the participant and the former spouse."
- 50 USC 403 note.

#### COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

50 USC 403 note. SEC. 603. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by inserting immediately above the section the following section heading: "COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES"; and

(2) by amending subsection (b) to read as follows:

"(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

*Post*, p. 1148.  
Waiver.

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

*Ante*, p. 1145.

"(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse, if the election is made (i) before the end of the 12-month period beginning on the date the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement of the participant.

Waiver.

"(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

*Post*, p. 1153.

"(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(4).

“(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant’s annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

“(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

*Post*, p. 1148.

“(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse’s death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.”.

#### RIGHT OF ELECTION

SEC. 604. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 603 of this title, is further amended in subsection (g)—

50 USC 403 note.

(1) by inserting “(1)” after “(g)”;

(2) by redesignating paragraphs (1) and (2) as clauses (A) and (B), respectively; and

(3) by adding at the end thereof the following:

“(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.”.

#### SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

SEC. 605. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by sections 603 and 604 of this title, is further amended by adding at the end thereof the following:

“(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

50 USC 403 note.

“(2) The Director shall issue regulations to provide for the application of paragraph (1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was

Regulations.

*Infra.*

married to the participant at any time during a period of recall service and who qualifies for an annuity under section 222(b).

“(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

“(o) The Director shall, on an annual basis—

“(1) inform each participant of his or her right of election under subsections (f)(2) and (n); and

“(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and sections 222, 223, and 234 (c), (d), and (e).”.

*Infra.*

*Post*, p. 1152.

#### COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

SEC. 606. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

#### “COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

50 USC 403 note.  
*Post*, p. 1153.

“SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to an annuity—

“(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

“(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of creditable service.

Annuity  
disqualification.

“(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

“(3) The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes



final, whichever is later. The annuity of such former spouse and the right thereto terminate on—

“(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

“(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph 4(B)).

“(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

*Ante*, p. 1146.

“(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

50 USC 403 note.

50 USC 403 note.

“(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

Disability annuity.

“(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

“(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

“(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

“(7) No spousal agreement or court order under section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant. No such court order relating to an annuity under this subsection may be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

*Post*, p. 1153.

“(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

“(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

50 USC 403 note.

“(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

*Ante*, p. 1146.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

50 USC 403 note.

"(B) Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

*Post*, p. 1153.

"(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

"(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 263(b) may provide for, an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

"(3)(A) In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

“(i) by a reduction in the annuity or an allotment from the salary of the participant,

“(ii) by a lump-sum payment or installment payments to the fund, or

“(iii) by any combination thereof.

“(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

“(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

“(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

“(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

“(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

“(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

“(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

50 USC 403 note.

“(d) Section 221(1) shall not apply—

50 USC 403 note.

“(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

*Post*, p. 1153.

*Ante*, p. 1146.

“(2) to any annuity payable under subsection (c).”.

#### SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 607. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 606 of this title, is further amended by adding at the end thereof the following:

**"ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES**

50 USC 403 note.

"SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

*Ante*, p. 1148.

"(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

*Post*, p. 1153.

"(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).

"(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 221(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

*Ante*, p. 1146.

"(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2). Such reduction shall be effective as of—

"(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

"(2) November 15, 1982, in the case of an election under subsection (b)(2)."

**DISCONTINUED SERVICE BENEFITS**

50 USC 403 note.

SEC. 608. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by striking out in subsection (a) "Any" and inserting in lieu thereof the following: "Subject to the limitations contained in subsections (c), (d), and (e), any"; and

(2) by adding at the end thereof the following:

50 USC 403 note.

"(C) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity under this Act and becomes entitled to receive a lump-sum payment under this section or section 241, a share of that lump-sum payment shall be paid to any former spouse of the participant in accordance with subsections (d) and (e).

Lump-sum credit.

"(d) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be—

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a pro-

portion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

“(e) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant—

50 USC 403 note.

“(1) only upon written notification by the Director to a current spouse of the participant, if any; and

“(2) only if the express written concurrence of that spouse has been received by the Director.”.

#### SPOUSAL AGREEMENTS; COURT DECREES

SEC. 609. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out “None” in section 263 and inserting in lieu thereof “(a) Except as provided in subsection (b) of this section, none”; and

50 USC 403 note.

(2) by adding at the end thereof the following:

“(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.”.

#### TECHNICAL AMENDMENTS

SEC. 610. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out in the first sentence of section 221(f) “Any” and inserting in lieu thereof the following: “Subject to the rights of former spouses under sections 221(b) and 222, any”; and

50 USC 403 note.

(2) by adding to subsection 221(l) the following paragraph:

“(4) This subsection shall not apply to the extent provided in section 222(d).”.

#### COMPULSORY CONTRIBUTIONS

SEC. 611. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new subsection:

50 USC 403 note.

“(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay

50 USC 403 note. period after the participant has completed thirty-five years of credit-  
 50 USC 403 note. able service computed under sections 251 and 252 (excluding service  
 credit for unused sick leave under section 221(h)), together with  
 interest on these amounts at the rate of 3 percent a year com-  
 pounded annually from the date of the deduction to the date of  
 retirement or death, shall be applied toward any special contribu-  
 tion due under section 252(b), and any balance not so required shall  
 be refunded in a lump sum to the participant after separation (or, in  
 the event of a death in service, to a beneficiary in order of prece-  
 50 USC 403 note. dence specified in subsection 241(b)(1)), subject to any restrictions on  
 50 USC 403 note. lump sums under section 234 of this Act regarding notification or  
 consent of a current spouse to such payments, or the participant  
 may use these sums to purchase an additional annuity in accordance  
 50 USC 403 note. with section 281, or any other elective benefits authorized by this  
 Act, including additional retirement or survivor benefits for a cur-  
 rent or former spouse or spouses.”.

#### PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 612. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a-m) is amended by adding at the end thereof the following new section:

##### “RETIREMENT EQUITY FOR SPOUSES OF CERTAIN EMPLOYEES

50 USC 403n. “SEC. 14. (a) The provisions of sections 204, 221(b) (1)–(3), 221(f),  
 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 234(c), 234(d), 234(e),  
 and 263(b) of the Central Intelligence Agency Retirement Act of  
 1964 for Certain Employees (50 U.S.C. 403 note) establishing certain  
 Ante, pp. 1146– requirements, limitations, rights, entitlements, and benefits relating  
 1148, 1152, 1153. to retirement annuities, survivor benefits, and lump-sum payments  
 for a spouse or former spouse of an Agency employee who is a  
 participant in the Central Intelligence Agency Retirement and Dis-  
 ability System shall apply in the same manner and to the same  
 extent in the case of an Agency employee who is a participant in the  
 Civil Service Retirement and Disability System.  
 Regulations. “(b) The Director of the Office of Personnel Management, in  
 consultation with the Director of Central Intelligence, shall pre-  
 scribe such regulations as may be necessary to implement the  
 provisions of this section.”.

#### EFFECTIVE DATE

50 USC 403 note. SEC. 613. (a) Except as provided in subsections (b) and (c) of this  
 section, this title shall take effect on November 15, 1982.  
 (b) The provisions of section 222(a) of the Central Intelligence  
 Agency Retirement Act of 1964 for Certain Employees, as added by  
 this title, regarding the rights of former spouses to an annuity shall  
 apply in the case of any individual who after the effective date of  
 this title becomes a former spouse of an individual who separates  
 from service with the Agency after such date.  
 (c) Except to the extent provided in section 223 of the Central  
 Intelligence Agency Retirement Act of 1964 for Certain Employees,  
 the provisions of section 221(b) (as amended by this title) and the  
 provisions of subsections (b) and (c) of section 222 of such Act, as  
 added by this title, regarding the rights of former spouses to receive  
 survivor annuities shall apply in the case of any individual who

after the effective date of this title becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.

## TITLE VII—GENERAL PROVISIONS

### RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

USC prec. title 1.

### INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 702. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

### EFFECTIVE DATE

SEC. 703. The provisions of titles IV and V and of this title shall become effective upon the date of the enactment of this Act.

10 USC 191 note.

Approved September 27, 1982.

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#### LEGISLATIVE HISTORY—H.R. 6068 (S. 2487):

HOUSE REPORTS: No. 97-486, Pt. 1 (Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services) and No. 97-779 (Comm. of Conference).

SENATE REPORTS: No. 97-379 (Comm. on Intelligence) and No. 97-480 (Comm. on Armed Services) and No. 97-779 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 18, 19, considered and passed House.

June 30, S. 2487 considered and passed Senate; H.R. 6068 amended, passed in lieu.

Sept. 8, House agreed to conference report.

Sept. 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 39 (1982):

Sept. 27, Presidential statement.

Public Law 97-270  
97th Congress

## Joint Resolution

Sept. 30, 1982  
[H.J. Res. 520]

To provide for a temporary increase in the public debt limit.

Public debt limit.  
Temporary  
increase.  
*Ante*, p. 937.  
31 USC 3101  
note.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That during the period beginning on October 1, 1982, and ending on September 30, 1983, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by \$890,200,000,000 (and any other provision of law providing for a temporary increase in such limit shall not apply).

Approved September 30, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 520:

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 23, considered and passed House.

Aug. 16-20, Sept. 8-10, 13-17, 20-23, considered and passed Senate.



Public Law 97-271  
97th Congress

An Act

To authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes.

Sept. 30, 1982  
[H.R. 3517]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Virgin Islands  
Nonimmigrant  
Alien  
Adjustment Act  
of 1982.  
8 USC 1255 note.

SHORT TITLE AND FINDINGS

SECTION 1. (a) This Act may be cited as the “Virgin Islands Nonimmigrant Alien Adjustment Act of 1982”.

(b) Congress finds—

(1) that in order to eliminate the uncertainty and insecurity of aliens who—

(A) legally entered the Virgin Islands of the United States as nonimmigrants for employment under the temporary alien labor program,

(B) have continued to reside in the Virgin Islands for long periods (some for as long as twenty years), and

(C) have contributed to the economic, social, and cultural development of the Virgin Islands and have become an integral part of the society of the Virgin Islands,

it is necessary and equitable to provide for the orderly adjustment of their immigration status to that of permanent resident aliens; and

(2) because—

(A) the Congress has special responsibility and authority with respect to the territories and the establishment of immigration policy, and

(B)(i) the Virgin Islands is a small and densely populated insular territory with limited resources,

(ii) most of the aliens eligible for benefits under section 2 of this Act are natives of islands in the Caribbean and have relatives residing in such islands, and such relatives, if they were permitted to immigrate to the United States, are likely to settle in the Virgin Islands, and

(iii) the admission of a significant number of these relatives would have a severe and detrimental impact on the limited health, education, housing, and other services available in the Virgin Islands,

there is a necessary and compelling need to prevent a secondary migration of a significant number of such relatives to the Virgin Islands.

ADJUSTMENT OF IMMIGRATION STATUS

SEC. 2. (a) The status of any alien described in subsection (b) may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien—

8 USC 1255 note.

(1) makes application for such adjustment during the one-year period beginning on the date of the enactment of this Act,

8 USC 1182.

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds of exclusion specified in paragraphs (14), (20), (21), (25), and (32), of section 212(a) of the Immigration and Nationality Act (hereinafter in this Act referred to as "the Act"), and

(3) is physically present in the Virgin Islands of the United States at the time of filing such application for adjustment. If such an alien has filed such an application and is or becomes deportable for failure to maintain nonimmigrant status, the Attorney General shall defer the deportation of the alien until final action is taken on the alien's application for adjustment.

(b) The benefits provided by subsection (a) apply to any alien who—

8 USC 1101.

(1) was inspected and admitted to the Virgin Islands of the United States either as a nonimmigrant alien worker under section 101(a)(15)(H)(ii) of the Act or as a spouse or minor child of such worker, and

(2) has resided continuously in the Virgin Islands of the United States since June 30, 1975.

8 USC 1151, 1152.

(c)(1) The numerical limitations described in sections 201(a) and 202 of the Act shall not apply to an alien's adjustment of status under this section. Such adjustment of status shall not result in any reduction in the number of aliens who may acquire the status of an alien lawfully admitted to the United States for permanent residence under the Act.

(2) The Secretary of State, in his discretion and after consultation with the Secretary of the Interior and the Governor of the Virgin Islands of the United States, may limit the number of immigrant visas that may be issued in any fiscal year to aliens with respect to whom second preference petitions (filed by aliens who have had their status so adjusted) are approved.

(3) Notwithstanding any other provision of law, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence)—

(A) by virtue of a fourth or fifth preference petition filed by an individual who had his status adjusted under this section unless the individual establishes to the satisfaction of the Attorney General that exceptional and extremely unusual hardship exists for permitting the alien to receive such visa (or otherwise acquire such status); or

(B) by virtue of a second preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section.

Definitions.

8 USC 1154.

(4) For purposes of this subsection, the terms "second preference petition", "fourth preference petition", "fifth preference petition", and "immediate relative petition" mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(2), 203(a)(4), 203(a)(5), or 201(b), respectively, of the Act.

8 USC 1153, 1151.

(d) Except as otherwise specifically provided in this section, the definitions contained in the Act shall apply in the administration of

this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

#### TERMINATION OF TEMPORARY WORKER PROGRAM IN THE VIRGIN ISLANDS

SEC. 3. Notwithstanding any other provision of law, on and after the date of the enactment of this Act the Attorney General shall not approve any petition filed under section 214(c) of the Act in the case of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act for employment in the Virgin Islands of the United States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.

8 USC 1255 note.

8 USC 1184.

8 USC 1101.

#### IMPACT ASSESSMENT AND REPORT

SEC. 4. The Secretaries of Health and Human Services, Education, Housing and Urban Development, Labor, and the Interior, and the Attorney General, in consultation with officials of the Government of the Virgin Islands of the United States and within such amounts as may otherwise be available through appropriations, shall jointly assess the impact on the Government of the Virgin Islands of providing health, education, housing, and other social services to individuals whose status is adjusted under section 2 of this Act (and to relatives of such individuals who enter the Virgin Islands as a result of such adjustment) and the need for assistance to the Government of the Virgin Islands to assist it in meeting the needs of these individuals and relatives. They shall, within one year after the date of the enactment of this Act, report to the President and the Congress on the results of their assessment and on any recommendations for changes in legislation which may be appropriate.

8 USC 1255 note.

Report to  
President and  
Congress.

Approved September 30, 1982.

#### LEGISLATIVE HISTORY—H.R. 3517:

HOUSE REPORT No. 97-307 (Comm. on the Judiciary).

SENATE REPORT No. 97-529 (Comm. on the Judiciary).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 4, considered and passed House.

Vol. 128 (1982): Aug. 20, considered and passed Senate, amended.

Sept. 8, House agreed to Senate amendment.

Public Law 97-272  
97th Congress

An Act

Sept. 30, 1982  
[H.R. 6956]

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

Department of  
Housing and  
Urban  
Development—  
Independent  
Agencies  
Appropriation  
Act, 1983.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING PAYMENTS

For the payment of annual contributions, not otherwise provided for, in accordance with section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); for payments authorized by title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.); for rent supplement payments authorized by section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s); and for payments as authorized by sections 235 and 236 of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1), \$9,538,000,000.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1983, \$453,000,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the

receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government.

#### CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs authorized under the Congregate Housing Services Act of 1978, \$4,000,000, to remain available until expended.

42 USC 8001  
note.

#### PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$1,350,000,000: *Provided*, That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: *Provided further*, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving \$15,000 or less, shall be made quarterly to public housing agencies receiving payments over \$15,000 and less than \$60,000, and shall be made monthly to public housing agencies receiving payments of \$60,000 or more: *Provided further*, That funds heretofore provided under this heading in Public Law 97-101 shall remain available for obligation for the fiscal year ending September 30, 1983, and shall be used by the Secretary for fiscal year 1983 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

95 Stat. 1417.

#### TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all unobligated balances of excess rental charges and any collections after September 30, 1982, to remain available until September 30, 1984: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

12 USC 1701.

42 USC 5301  
note.

#### HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section

12 USC 1701x. 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, \$3,500,000.

#### FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), \$240,022,000, to remain available until expended.

During 1983, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During 1983, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed \$39,800,000,000 of loan principal.

12 USC 1715u. During fiscal year 1983, gross obligations for direct loans of not to exceed \$45,000,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

#### NONPROFIT SPONSOR ASSISTANCE

During 1983, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed \$1,790,000.

#### GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

##### PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

81 Stat. 341. For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), \$2,726,000.

##### EMERGENCY MORTGAGE PURCHASE ASSISTANCE

During 1983, within the resources and authority available, gross obligations for the principal amounts of direct loans are authorized in such amounts as are necessary for increases to prior year commitment contracts.

##### GUARANTEES OF MORTGAGE-BACKED SECURITIES

12 USC 1721. During 1983, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed \$68,250,000,000 of loan principal.

## SOLAR ENERGY AND ENERGY CONSERVATION BANK

## ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), \$20,000,000, to remain available until September 30, 1984.

12 USC 3601  
note.

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), \$3,456,000,000, to remain available until September 30, 1985: *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development.

During 1983, total commitments to guarantee loans, as authorized by section 108 of the aforementioned Act, shall not exceed \$225,000,000 of contingent liability for loan principal.

42 USC 5308.

## URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, \$440,000,000, to remain available until September 30, 1986.

42 USC 5318.

## REHABILITATION LOAN FUND

During 1983, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1982, are available for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans.

## URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, \$12,000,000, to remain available until expended.

12 USC 1706e.

**NEW COMMUNITY DEVELOPMENT CORPORATION****NEW COMMUNITIES FUND**

For the redemption of new community debentures and related expenses, authorized by section 713, Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4514), and section 403, Housing and Urban Development Act of 1968, as amended (42 U.S.C. 3902), such sums as may be necessary, to be financed as provided by section 717, Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4518).

**POLICY DEVELOPMENT AND RESEARCH****RESEARCH AND TECHNOLOGY**

5 USC app. For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$18,000,000, to remain available until September 30, 1984.

**FAIR HOUSING AND EQUAL OPPORTUNITY****FAIR HOUSING ASSISTANCE**

42 USC 3601. For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, \$5,700,000, to remain available until September 30, 1984.

**MANAGEMENT AND ADMINISTRATION****SALARIES AND EXPENSES****(INCLUDING TRANSFER OF FUNDS)**

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$3,000 for official reception and representation expenses, \$575,223,000, of which \$267,723,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That none of the funds made available in this paragraph may be used prior to January 1, 1983, to plan, design, implement or administer any reorganization of the Department without the prior approval of the Committees on Appropriations.

**TITLE II****INDEPENDENT AGENCIES****AMERICAN BATTLE MONUMENTS COMMISSION****SALARIES AND EXPENSES**

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of



land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; \$10,669,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 121b.

36 USC 122.

36 USC 122a.

## CONSUMER PRODUCT SAFETY COMMISSION

### SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including rent in the District of Columbia, hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed \$500 for official reception and representation expenses, \$33,508,000: *Provided*, That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

## DEPARTMENT OF DEFENSE—CIVIL

### CEMETERIAL EXPENSES, ARMY

#### SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, \$6,682,000, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

## ENVIRONMENTAL PROTECTION AGENCY

### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for

GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; and not to exceed \$3,000 for official reception and representation expenses; \$548,613,200: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

#### RESEARCH AND DEVELOPMENT

For research and development activities, \$119,000,000, to remain available until September 30, 1984.

#### ABATEMENT, CONTROL AND COMPLIANCE

For abatement, control and compliance activities, \$369,075,000, to remain available until September 30, 1984: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913) or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009: *Provided further*, That notwithstanding any other provision of law, Inverness, Mississippi shall be reimbursed for the costs incurred for the construction of a hydrological control release lagoon.

42 USC 6941.  
42 USC 6948,  
6949.

#### BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or used by, the Environmental Protection Agency, \$3,000,000, to remain available until expended.

#### PAYMENT TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For payment to the Hazardous Substance Response Trust Fund as authorized by Public Law 96-510, \$40,000,000.

42 USC 9631.

#### HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4), \$210,000,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That not to exceed \$37,380,000 shall be available for administrative expenses. Funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96-510: *Provided further*, That of the funds appropriated under this head, \$8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional \$2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided further*, That management of all funds made available to

42 USC 9601  
note.  
42 USC 9611.

the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act: *Provided further*, That the administrative expenses contained in the first proviso are increased by \$4,708,000: *Provided further*, That for purposes of carrying out section 3012 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6933), as added by Public Law 96-482, \$10,000,000, from the funds provided under this head, to remain available until September 30, 1984.

42 USC 9633.

## CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, including sections 201(n)(2) and 201(m)(3), other than sections 206, 208, and 209, \$2,430,000,000, to remain available until expended.

33 USC 1281.  
33 USC 1281,  
1286, 1288, 1289.

## ADMINISTRATIVE PROVISION

With funds appropriated by this Act the Administrator shall cancel, deny, or take any other necessary action to cancel or deny, the registration of any pesticide product containing toxaphene: *Provided*, That none of the funds appropriated by this Act shall be used for the purpose of granting any registration of any pesticide product containing toxaphene, or for the purpose of approving any amendment to such a registration which would allow the use of such a product: *Provided further*, That this provision shall not apply to the use of toxaphene for the treatment of nondairy cattle scabies by topical application on an individual basis, as approved by the Animal and Plant Health Inspection Service of the United States Department of Agriculture, until existing stocks are depleted or for a period of three years after enactment of this Act, whichever comes first: *Provided further*, That the foregoing provisos shall only take effect if the Environmental Protection Agency fails to promulgate a notice of intent to cancel or restrict registration of toxaphene within sixty days after enactment of this Act.

## EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF  
ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed \$500 for official reception and representation expenses, and hire of passenger motor vehicles, \$926,000.

42 USC 4321  
note.  
42 USC 4371  
note.  
5 USC app.

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed \$1,500 for official recep-

tion and representation expenses, and rental of conference rooms in the District of Columbia, \$1,839,000.

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### FUNDS APPROPRIATED TO THE PRESIDENT, DISASTER RELIEF

42 USC 4401  
note.

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401), and the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), \$130,000,000 to remain available until expended.

##### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed \$500 for official reception and representation expenses, \$111,300,000.

##### STATE AND LOCAL ASSISTANCE

42 USC 4001  
note.

For necessary expenses, not otherwise provided for, to carry out activities under the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the National Flood Insurance Act of 1968, as amended, the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), \$154,591,000.

##### EMERGENCY PLANNING AND ASSISTANCE

12 USC 1701  
note.

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Urban Property Protection and Reinsurance Act of 1968, as amended, and the National Insurance Development Act of 1975 (12 U.S.C. 1749bbb et seq.), the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 278f and 2201 et seq.), the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, \$154,007,000.

5 USC app.

**NATIONAL FLOOD INSURANCE FUND**

For repayment under notes dated April 17, 1979, and September 28, 1979, issued by the Director of the Federal Emergency Management Agency to the Secretary of the Treasury pursuant to section 15(e) of the Federal Flood Insurance Act of 1956, as amended (42 U.S.C. 2414(e)), \$39,159,000. In fiscal year 1983, not to exceed (1) \$32,341,000 for operating expenses, (2) \$38,746,000 for agents' commissions and taxes, and (3) \$13,889,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without the approval of the Committees on Appropriations.

**GENERAL SERVICES ADMINISTRATION****CONSUMER INFORMATION CENTER**

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$1,351,000.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****OFFICE OF CONSUMER AFFAIRS**

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, \$1,947,000.

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****RESEARCH AND DEVELOPMENT**

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; and including not to exceed (1) \$1,769,000,000 for Space Shuttle, (2) \$1,796,000,000: *Provided*, That the amount available for obligation or expenditure shall be reduced to the extent subsequent authorizations provide for transfers for Space Flight Operations, (3) \$115,000,000 for Space Transportation Systems—Upper Stages, (4) \$88,000,000 for Space Transportation Systems Operations—Upper Stages, (5) \$137,500,000 for the Space Telescope, (6) \$34,500,000 for the Gamma Ray Observatory, (7) \$92,600,000 for Project Galileo, (8) \$4,000,000 for a Space Station, (9) \$55,000,000 for Performance Augmentation, without the approval of the Committees on Appropriations, \$5,542,800,000, to remain available until September 30, 1984: *Provided*, That \$280,000,000 shall be made available for aeronautical research and technology, that \$192,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper stages (Centaur): *Provided further*, That none of the funds in this or any other Act shall be used for the development of a fifth space shuttle orbiter without the approval of the Committees on Appropriations.

## CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, \$97,500,000, to remain available until September 30, 1985: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this head by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

## RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; purchase (for replacement only, of two aircraft, for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), hire, maintenance and operation of administrative aircraft; purchase (not to exceed seventeen for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of \$75,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; \$1,168,900,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed \$25,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

## NATIONAL CREDIT UNION ADMINISTRATION

## CENTRAL LIQUIDITY FACILITY

The amount which may be borrowed, from the public or any other source except the Secretary of the Treasury, by the Central Liquidity Facility as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1983 shall not exceed \$1,368,000.

## NATIONAL SCIENCE FOUNDATION

## RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; lease of one aircraft with option to purchase and purchase; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; not to exceed \$62,381,000 for program development and management; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services, \$1,060,000,000, to remain available until September 30, 1984: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That of the funds appropriated in this Act or in funds appropriated previously to the Foundation, not less than \$9,000,000 shall be available for the United States Antarctic Research Program and not more than \$73,400,000 shall be available for the United States Antarctic Program operations and support: *Provided further*, That no funds appropriated in this Act or in funds previously appropriated to the Foundation shall be available for the advanced ocean drilling program without the approval of the Committees on Appropriations and not in excess of \$12,000,000 shall be available for the deep sea drilling project without the approval of the Committees on Appropriations.

## SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, \$30,000,000, to remain available until September 30, 1984: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

**SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)**

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, \$2,200,000, to remain available until September 30, 1984: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation, for payments in the foregoing currencies.

**NEIGHBORHOOD REINVESTMENT CORPORATION****PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION**

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), \$15,512,000: *Provided*, That notwithstanding any other provisions of this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act, with the prior approval of the Committees on Appropriations.

**SELECTIVE SERVICE SYSTEM****SALARIES AND EXPENSES**

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed \$500 for official reception and representation expenses; \$22,700,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

**DEPARTMENT OF THE TREASURY****PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND**

For payments to the State and Local Government Fiscal Assistance Trust Fund, as authorized by the State and Local Fiscal



Assistance Act of 1972, as amended (31 U.S.C. 1221-1263), \$4,566,700,000.

#### OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses of the Office of Revenue Sharing, including hire of passenger motor vehicles, \$6,612,000.

#### OFFICE OF THE SECRETARY, SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, \$310,000.

### VETERANS ADMINISTRATION

#### COMPENSATION AND PENSIONS

For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, \$13,430,800,000, to remain available until expended.

50 USC app. 540.

#### READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, 34-36, 39, 51, 53, 55, and 61), \$1,665,800,000, to remain available until expended.

38 USC 801 *et seq.*, 1501 *et seq.*, 1651-1770 *et seq.*, 1901 *et seq.*, 3001 *et seq.*, 3101 *et seq.*, 3201 *et seq.*, 3501 *et seq.*

#### VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), \$6,400,000, to remain available until expended.

38 USC 701 *et seq.*

#### MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed \$2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); \$7,510,606,000, plus reimbursements.

## MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1984, \$152,665,000, plus reimbursements.

## MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, \$55,807,000, plus reimbursements.

## GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed \$3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of eight passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$689,000,000.

## CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is \$2,000,000 or more or where funds for a project were made available in a previous major project appropriation, \$407,392,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the Advance Planning Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process.

## CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than \$2,000,000, \$141,748,000, to remain available until expended, along with unobligated balances of previous Construction, minor projects appropriations which are hereby made available for any project where the estimated cost is less than \$2,000,000: *Provided*, That not more than \$32,865,000 shall be available for expenses of the Office of Construction.

**GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES**

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), \$18,000,000, to remain available until September 30, 1985.

**GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES**

For grants to aid States in establishing, expanding or improving State veterans' cemeteries as authorized by law (Public Law 95-476, sec. 202), \$2,500,000, to remain available until September 30, 1985.

92 Stat. 1503.

**GRANTS TO THE REPUBLIC OF THE PHILIPPINES**

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, \$500,000, to remain available until September 30, 1984.

**LOAN GUARANTY REVOLVING FUND**

During 1983, the Loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the Direct loan revolving fund, shall be available, during 1983, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

38 USC 1801 *et seq.*

38 USC 1824.

During 1983, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

**DIRECT LOAN REVOLVING FUND**

During 1983, within the resources available, gross obligations for direct loans are authorized only for specially adapted housing loans and obligations for such loans shall not exceed \$1,000,000 (38 U.S.C. chapter 37).

**ADMINISTRATIVE PROVISIONS**

Not to exceed 5 per centum of any appropriation for 1983, for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1983, for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Not to exceed \$35,000,000 of the foregoing appropriations shall be available for medical automatic data processing services as set forth in the budget justifications without the approval of the Committees on Appropriations.

### TITLE III

#### CORPORATIONS

31 USC 841 note.  
*Ante*, p. 877.

31 USC 849.  
*Ante*, p. 877.

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1983 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriation Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

#### FEDERAL HOME LOAN BANK BOARD

##### LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE

##### EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of \$65,040,000 shall be available for expenses of the Federal Home Loan Bank Board, which amount shall include nonadministrative expenses for the examination and supervision of Federal and State-chartered institutions in an amount not to exceed \$40,680,000, including \$500,000 which shall be available only for purposes of training State examiners, and administrative expenses in an amount not to exceed \$24,360,000, and said total amount shall be available for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accord-

ance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal Home Loan Banks, the Federal Reserve Banks, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided*, That expenses for special examinations of Federal and State-chartered institutions determined by the Board to be necessary, all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Federal Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A(f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of, or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be excluded from the above limitations: *Provided further*, That members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That not to exceed \$1,500 shall be available for official reception and representation expenses: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421-1449).

12 USC 1425a,  
1426, 1464; 15  
USC 784; 12 USC  
1729-1730a.

12 USC 1428a  
note.

#### LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed \$1,120,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve Banks, the

12 USC  
1729-1730a.

Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

## TITLE IV

### GENERAL PROVISIONS

Travel expenses.

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; or to payments to interagency motor pools where separately set forth in the budget schedules.

42 USC 5121  
note.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

Legal services.  
31 USC 841 note.  
*Ante*, p. 877.  
12 USC 1749a.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—  
(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitations.

Prohibition of certain government transportation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

Research projects.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations without the approval of the Committees on Appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Consulting service contracts.  
Public record availability.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and

(B) the contractor who prepared the report pursuant to such contract.

SEC. 413. No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 414. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 415. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 416. (a)(1) Notwithstanding the directive of the Senate Office Building Commission of March 19, 1982, and notwithstanding any other provision of law, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building.

(2) The Architect of the Capitol is authorized to obligate and expend from the construction contingency funds for the Hart Senate Office Building amounts which are prohibited to be obligated, committed, or expended by the first paragraph of this subsection for such other necessary expenses relating to the completion of the Hart Senate Office Building as the Architect of the Capitol deems necessary.

(b) No funds may be expended for the operation of the physical fitness facility in the Dirksen Senate Office Building after the date of enactment of this Act.

Short title.

This Act may be cited as the "Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983".

Approved September 30, 1982.

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LEGISLATIVE HISTORY—H.R. 6956 (S. 2880):

HOUSE REPORTS: No. 97-720 (Comm. on Appropriations) and No. 97-891 (Comm. of Conference).

SENATE REPORTS: No. 97-549 (Comm. on Appropriations) and No. 97-537 accompanying S. 2880 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 15, considered and passed House.

Sept. 24, considered and passed Senate, amended.

Sept. 29, House agreed to conference report; concurred in some Senate amendments in others with amendments.

Sept. 29, Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):

Oct. 12, Presidential statement.



Public Law 97-273  
97th Congress

An Act

To authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

Sept. 30, 1982  
[H.R. 4347]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the WEB Rural Water Development Project, authorized by section 9 of the Rural Development Policy Act of 1980 (94 Stat. 1175), is reauthorized subject to the provisions of section 9 of that Act, as amended by section 2 of this Act. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to proceed with the development of the WEB Rural Water Development Project, consistent with the terms and conditions of section 9(e) of that Act, as amended by section 2 of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

WEB Rural  
Water  
Development  
Project.

94 Stat. 1171.  
Funds, appropri-  
ation.

SEC. 2. Section 9 of the Rural Development Policy Act of 1980 is amended by—

94 Stat. 1175.

(a) striking out in subsection (b) all after "the types of construction involved herein" and inserting a period in lieu thereof;

(b) striking out the first sentence of subsection (d); and

(c) striking out the first sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of the Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section."

7 USC 1921 note.

SEC. 3. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct feasibility investigations of the following proposed water resource developments:

Proposed water  
resource  
developments,  
investigations.

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri basin program, North Dakota; and

(3) a reformulated plan for the development of the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri basin program, South Dakota, including irrigation of alternative lands or reduced acreages.

(b) The Secretary shall report to Congress the findings of the studies authorized by this section along with his recommendations.

Report to  
Congress.

Oahe unit,  
initial stage.

(c) The Secretary may contract with the State to carry out the studies authorized by this section.

SEC. 4. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial Stage: *Provided*, That such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown irrigation districts: *Provided further*, That any repayment obligation existing at the time of cancellation of the master and participating and security contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri basin program: *Provided, however*, That such costs shall be assumed and repaid by the beneficiaries of any future project which utilizes the Oahe unit facilities. Such repayment obligation and manner of repayment shall be determined pursuant to the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East canals; Cresbard and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

SEC. 5. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Pick-Sloan Missouri basin program pumping power to the Crow Creek, Cheyenne River, Omaha and Standing Rock Indian Reservation irrigation developments, and the Grass Rope Unit, Pick-Sloan Missouri basin program. Such pumping power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by Act of Congress.

Appropriation  
authorization.

SEC. 6. There is hereby authorized to be appropriated beginning October 1, 1982, such funds as may be necessary to carry out the provisions of this Act.

Approved September 30, 1982.

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LEGISLATIVE HISTORY—H.R. 4347:

HOUSE REPORT No. 97-524 Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Agriculture).

SENATE REPORT No. 97-514 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 8, considered and passed House.

Aug. 19, considered and passed Senate, amended.

Sept. 23, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 39 (1982):

Sept. 30, Presidential statement.

Public Law 97-274  
97th Congress

An Act

To amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

Sept. 30, 1982  
[H.R. 7065]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 682(b)(4) of the Community Services Block Grant Act (42 U.S.C. 9911(b)(4)) is amended—

Community  
Services  
Block Grant Act,  
amendment.  
95 Stat. 518.

- (1) by inserting “(A)” after “(4)”;
- (2) by inserting “or to entities designated under subparagraph (B)” before the period at the end thereof; and
- (3) by adding at the end thereof the following new subparagraph:

“(B)(i) In any case in which a community action agency is denied refunding or is terminated for cause by the Secretary during fiscal year 1982 (regardless of whether such community action agency seeks review of such determination), the Secretary, with the concurrence of the chief executive officer of the State involved, may designate another public or private nonprofit agency to administer a community action program (as defined in section 210(a) of the Economic Opportunity Act of 1964, as in effect on September 30, 1981) in the same community.

42 USC 2790.

“(ii) If, after the Secretary makes a designation under clause (i) and before the State involved begins operating programs under the block grant established in this subtitle, a final determination is made to restore funding to the community action agency which was terminated or whose refunding was denied, then the agency desig-

nated under clause (i) shall lose its designation (as of the effective date of such final determination).

Restriction.

“(iii) Notwithstanding the foregoing provisions of this section, if the Secretary makes a designation under clause (i), then the agency so designated shall be considered to be an eligible entity for purposes of this subtitle through fiscal year 1983.”.

Approved September 30, 1982.

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LEGISLATIVE HISTORY—H.R. 7065:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 20, considered and passed House.

Sept. 24, considered and passed Senate.

Public Law 97-275  
97th Congress

An Act

To amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052).

Oct. 1, 1982  
[S. 1628]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems", approved June 26, 1948, is amended by striking the words "irrigation and power systems" in the title and substituting the words "project facilities" and by changing the first sentence of section 1 of the Act to read as follows: "In order to assure continuous operation of all projects and project facilities governed by the Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), there is hereby authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions."

Emergency  
Fund Act,  
amendment.

43 USC 502.

43 USC 371 note.

43 USC 422k.

43 USC 421c.  
Appropriation  
authorization.

Approved October 1, 1982.

LEGISLATIVE HISTORY—S. 1628:

HOUSE REPORT No. 97-769 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-363 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
    May 10, considered and passed Senate.  
    Sept. 20, considered and passed House.

Public Law 97-276  
97th Congress

## Joint Resolution

Oct. 2, 1982

[H.J. Res. 599]

Continuing  
appropriations  
for fiscal year  
1983.

Making continuing appropriations for the fiscal year 1983, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1982 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1983;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983;

District of Columbia Appropriation Act, 1983;

Department of Transportation and Related Agencies Appropriation Act, 1983; and

Treasury, Postal Service and General Government Appropriation Act, 1983.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed the House as of October 1, 1982, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982: *Provided further*, That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to the House or the Senate but not passed by that House as of October 1, 1982, it shall be deemed as having been passed by that House.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or author-

ity granted by the House, but at a rate for operations of the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1982, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1982, under the current terms and conditions and at a rate to maintain current operating levels:

activities under the purview of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1982, as provided for in Public Law 97-92; and

activities, including those activities conducted pursuant to section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended, for which provision was made in the Department of the Interior and Related Agencies Appropriation Act, 1982: *Provided*, That no programs or facilities funded therein may be terminated unless such termination is specifically approved in the appropriations process, including reprogramming.

(c) Pending passage of the regular Department of Defense Appropriation Act for fiscal year 1983, such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1982, for which provision was made in the Department of Defense Appropriation Act, 1982, but such activities shall be funded at not to exceed an annual rate for new obligational authority of \$228,700,000,000, which is an increase above the current level, and this increase shall be distributed on a pro-rata basis to each appropriation account and shall operate under the terms and conditions provided for in the applicable appropriation Acts for the fiscal year 1982: *Provided*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds or other authority were not available during the fiscal year 1982; this limitation shall include but not be limited to prohibitions on funding availability for initial production of the MX intercontinental ballistic missile and for long lead or initial production of a second nuclear-powered aircraft carrier until midnight December 17, 1982; and in addition, this limitation shall include the lower appropriation or funding ceilings for specific projects and activities set forth in the Department of Defense Appropriation Act, 1983, as reported to the Senate on September 23, 1982, or as subsequently reported to the House of Representatives: *Provided further*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later except for the following programs and amounts; AN/ALQ-136 Radar Jamming Systems, \$14,500,000; NATO Seasparrow Ordalt Kits, \$33,000,000;

95 Stat. 1183.

95 Stat. 619.  
42 USC 6247.

95 Stat. 1391.

95 Stat. 1565.

continue the purchase of C-2 aircraft under a multiyear contract, \$267,800,000: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph for the pay of members of the uniformed services shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 per centum on October 1, 1982: *Provided further*, That pending passage of the regular Department of Defense Appropriation Act for fiscal year 1983, none of the funds appropriated or made available pursuant to this paragraph shall be available for the additional conversion of any full time personnel in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard, from military technician to Active Guard/Reserve status: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph, except for small purchases in amounts not exceeding \$10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto; Nothing in this provision shall preclude the procurement of foreign produced specialty metals used in the production or manufacture of weapons or weapons systems made outside the United States except those specialty metals which contain nickel from Cuba, or the procurement of chemical warfare protective clothing produced outside the United States, if such procurement is necessary to comply with agreements with foreign governments; Nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions; No funds appropriated or made available pursuant to this paragraph shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed \$5,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations; That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 5 per



centum; None of the funds appropriated or made available pursuant to this paragraph shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

(d) Such amounts as may be necessary for continuing the activities of the Foreign Assistance Appropriations Act of 1982, Public Law 97-121, under the terms and conditions, and at the rate, provided for in that Act or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law: *Provided*, That amounts allocated to each country under this paragraph shall not exceed those provided in fiscal year 1982 unless submitted through the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That economic and military assistance shall be available to Israel at the rate provided by, and under the terms and conditions of, Public Law 97-113.

95 Stat. 1647.

22 USC 2412.  
22 USC 2680.95 Stat. 1519.  
22 USC 2151  
note.

(e) Notwithstanding section 102 of this joint resolution, such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in S. 2939, entitled the Legislative Branch Appropriation Act, 1983, as reported September 22, 1982, and the provisions of S. 2939 shall be effective as if enacted into law; except that the provisions of section 306 (a), (b), and (d) of S. 2939 shall apply to any appropriation, fund, or authority made available for the period October 1, 1982, through December 17, 1982, by this or any other Act.

5 USC 5318 note.

For purposes of this subsection, S. 2939, as reported September 22, 1982, shall be treated as appropriating the following amounts:

Under the headings "JOINT ITEMS", "CONTINGENT EXPENSES OF THE SENATE", "Joint Economic Committee", \$2,327,000, and "CONTINGENT EXPENSES OF THE HOUSE", "Joint Committee on Taxation", \$3,233,000; under the headings "CONGRESSIONAL BUDGET OFFICE", "SALARIES AND EXPENSES", \$14,825,000; under the headings "ARCHITECT OF THE CAPITOL", "Salaries", \$4,301,000; under the headings "COPYRIGHT ROYALTY TRIBUNAL", "SALARIES AND EXPENSES", \$606,000, of which \$157,000 shall be derived from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807; under the headings "GENERAL ACCOUNTING OFFICE", "SALARIES AND EXPENSES", \$244,900,000.

For purposes of this subsection, S. 2939 shall be applied as follows:

The limitation on the number of staff employees of the Congressional Budget Office contained in S. 2939 shall be applied by substituting "222 staff employees" for "226 staff employees";

The fourth proviso under the headings "GOVERNMENT PRINTING OFFICE", "GOVERNMENT PRINTING OFFICE REVOLVING FUND", relating to travel expenses of advisory councils to the Public Printer, contained in S. 2939 shall be effective only for fiscal year 1983. Notwithstanding any other provision of this joint resolution, for payment to Patricia Ann Benjamin, wife of Adam Benjamin, Junior, late a Representative from the State of Indiana, \$60,663.

(f) Such amounts are available as may be necessary for projects or activities provided for in H.R. 6968, the Military Construction Appropriations Act, 1983, as passed the House on August 19, 1982, at

a rate for operations and to the extent and in the manner provided for in such Act: *Provided*, That notwithstanding the foregoing provision of this paragraph and notwithstanding any other provision of this joint resolution, such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such Act had been enacted into law.

95 Stat. 1135.

(g) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: *Provided*, That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: *Provided further*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: *Provided further*, That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982.

Funding  
availability.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) December 17, 1982, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Ante, p. 928.

SEC. 105. Any appropriation for the fiscal year 1983 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each

such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

*Ante*, p. 928.

SEC. 106. In accordance with Public Law 97-257 of September 10, 1982, not to exceed an annual rate of \$13,500,000 from the fees collected and credited to the "Salaries and Expenses" appropriation of the Federal Bureau of Investigation to process fingerprint identification records for noncriminal employment and licensing services, shall be available for salaries and other expenses incurred in providing such services.

*Ante*, p. 818.

SEC. 107. Notwithstanding any other provision of this joint resolution, the New England Division of the United States Army Corps of Engineers shall be maintained as a Division with all of the duties and functions of a Division retained and shall not be redesignated a District or any other type office, other than Division.

SEC. 108. Of amounts appropriated for the Water Resources Council, Water Resources Planning, for preparation of assessments and plans, in Public Law 97-88, not more than \$195,000 shall remain available until expended and shall be available to pay for work performed prior to fiscal year 1982 in support of the Columbia River Estuary Data Development Program, if such work is accepted by the Water Resources Council.

95 Stat. 1148.

SEC. 109. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1983, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

5 USC 5343 note.

(1) for the period from October 1, 1982, until the next applicable wage survey adjustment becomes effective, the rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1982; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1983, a rate which exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1983.

5 USC 5348.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of enactment of this Act.

5 USC 5343 note.

(c) For the purposes of subsection (a) of this section, the rate payable to any employee who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1982, shall be determined under regulations prescribed by the President.

Regulations.

(d) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(e) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or

contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Space and  
services  
rental.

40 USC 490.

SEC. 110. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: *Provided*, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982: *Provided further*, That the limitations of this section shall terminate on December 17, 1982.

Federal lands,  
disposal.

47 FR 8547.

SEC. 111. Except as expressly provided for by law, none of the funds provided in this joint resolution shall be obligated to dispose, except by exchange, of any Federal land tract or lands with national environmental or economic value until such time as the General Services Administration, the Property Review Board, or other agencies as required under Executive Order 12348 has specifically identified them as no longer being needed by the Federal Government; inventoried them as to their public benefit values; provided opportunity for public review and discussion of the property proposed for disposal; and provided 30 days advance notice of the property proposed for disposal and of the plans for carrying out such disposal to the congressional delegation of the State or States in which the tract proposed for sale is located and to the appropriate congressional committees for immediate printing in the Congressional Record: *Provided*, That neither the Act of July 31, 1958 as amended (72 Stat. 438, as amended; 7 U.S.C. 1012a; 16 U.S.C. 478a) nor the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.) shall be subject to the provisions of this section.

50 USC 98d.

50 USC 98e.

SEC. 112. Notwithstanding any other provision of this joint resolution except section 102, moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than \$120,000,000 in addition to amounts previously appropriated, of which not to exceed \$85,000,000 shall be available only until the termination of this joint resolution for the purchase of domestic copper mined and smelted in the United States after September 30, 1982, may be obligated from amounts in the National Defense Stockpile Transaction Fund for

the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.

SEC. 113. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-item projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1983, as reported to the House or the Senate.

SEC. 114. (a)(1) Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be applied first toward ensuring voter education on the proposed constitution by (A) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for and against its provisions as expressed by the Convention delegates taking such positions, (B) mailing of this information to the registered voters of the District of Columbia by October 22, 1982, and (C) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

(2) None of the funds provided by this joint resolution may be used to pay for the publication of any information or materials by the Statehood Commission which fail to present objective arguments for and against the provisions of the proposed constitution.

(b) Notwithstanding section 102, the paragraph under the heading "LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND" in the District of Columbia Appropriation Act, 1982 (Public Law 97-91; 95 Stat. 1175) is amended—

95 Stat. 1174.

(1) in the second proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of fees to ticket agents, fees to contractors supplying gambling paraphernalia or services, and prizes";

(2) in the third proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of such fees and prizes";

(3) in the fourth proviso, by striking out "prizes and administration of the Board shall not exceed resources available to the Board from appropriated authority or revenues" and inserting in lieu thereof "administration of the Board shall not exceed resources available to the Board from appropriated authority: *Provided further*, That the annual expenses for fees and prizes shall not exceed revenues"; and

(4) in the fifth proviso, by striking out "for prize money" and inserting in lieu thereof "for fees and prize money".

(c) Notwithstanding any other provision of this resolution, the Superior Court of the District of Columbia may continue to operate the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program, from existing resources and position authority. Upon passage of the fiscal year 1983 appropriation Act, full year program funding will be available to pay, retroactively, for program services performed on or after October 1, 1982.

(d) The Washington Convention Center may proceed at an annual rate of operation which does not exceed \$5,275,000.

SEC. 115. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service

Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be continued at the rates in effect on July 28, 1982 (step 13): *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1982 level.

*Ante*, pp. 837,  
838.

SEC. 116. Funds appropriated in Public Law 97-257 to the United States Fish and Wildlife Service for "Construction and anadromous fish" and to the Office of Surface Mining Reclamation and Enforcement for "Abandoned Mine Reclamation Fund" shall remain available until expended.

SEC. 117. Notwithstanding section 101(a)(3) of this joint resolution, funds shall be available for the United States Court of Appeals for the Federal Circuit at an annual rate not to exceed \$4,146,000.

SEC. 118. Notwithstanding any other provision of law or of this joint resolution, AID/afr-C-1414, Agency for International Development, shall be extended for an additional three years.

*Ante*, p. 129.

SEC. 119. Notwithstanding any other provision of this joint resolution, there is appropriated \$36,500,000, to remain available until expended, for Smithsonian Institution "Construction" to carry out the provisions of Public Law 97-203 to construct a building for the Museum of African Art and a gallery for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building, including not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109: *Provided*, That except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds herein appropriated shall be available for obligation or expenditure until such time as the Chancellor, acting on behalf of the Board of Regents of the Smithsonian Institution, certifies that all required matching funds are actually on hand or available through legally binding pledges.

42 USC 6231-  
6246.

SEC. 120. Notwithstanding any other provision of this joint resolution, there is appropriated \$242,118,000, to remain available until expended, for Department of Energy "Strategic Petroleum Reserve" to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163).

15 USC 631  
note.

SEC. 121. Notwithstanding section 101(a)(3) of this joint resolution, of the funds provided for the Salaries and Expenses appropriation of the Small Business Administration under this joint resolution, an annual rate of \$14,000,000 shall be available only for grants for Small Business Development Centers as authorized by section 20(a) of the Small Business Act, as amended.

SEC. 122. Notwithstanding section 101(a)(3) of this joint resolution, none of the funds provided by this joint resolution for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to section 4 (a), (b), and (c); section 5; and section 11 of H.R. 3480, as passed the House of Representatives on June 18, 1981: *Provided*, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

- (1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15), (20));
- (2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one

years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

8 USC 1101  
note.

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section: *Provided further*, That none of the funds provided by this joint resolution for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (a) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (b) a qualified nonprofit organization chartered under the laws of one of the States for the primary purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: *Provided further*, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the Board of Directors of the Legal Services Corporation.

42 USC 2996f.

SEC. 123. No provision in any appropriation Act for the fiscal year 1983 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 124. Notwithstanding any other provision of this joint resolution, in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period

5 USC 5514 note.

Termination of  
employment,  
debt collection.

of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due to the individual from the United States Treasury.

SEC. 125. Of the \$77,042,000 available at an annual rate under this joint resolution for the exchange programs of the United States Information Agency, \$67,301,000 shall be available for the Fulbright and International Visitor Programs, \$2,620,000 shall be available for the Humphrey Fellowship Program and \$7,121,000 shall be available for the Private Sector Programs.

16 USC 1132  
notes.  
94 Stat. 949.  
48 USC 1782.

SEC. 126. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 4(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statewide or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this joint resolution shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oilshale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas.

42 USC 603 note.  
42 USC 601.

SEC. 127. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to any of the fiscal years 1977 through 1982 shall be made prior to the date on which this resolution expires on account of the provisions of section 403(h) of such Act.

42 USC 603.

SEC. 128. Notwithstanding any other provision of this joint resolution except section 102, funds shall be available for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), at the rate and under the terms and conditions provided for in title III of H.R. 7072 as passed the Senate on September 28, 1982.

95 Stat. 1647.

SEC. 129. Notwithstanding any other provision of law or this joint resolution, except section 102, an amount for those International Financial Institutions referred to in title I of Public Law 97-121, the Foreign Assistance and Related Program Appropriations Act, 1982, as is equal to the total for such institutions in that title, may be allocated by the President among those institutions in a manner which does not exceed the limits established in authorizing legislation.

49 USC 1376a  
note.

SEC. 130. Notwithstanding any other provision of this joint resolution, except section 102, and notwithstanding any other provision of law for payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389),



as is payable by the Board, \$48,400,000 is appropriated to remain available until expended, and such amounts as may be necessary to liquidate obligations incurred prior to September 30, 1982, under 49 U.S.C. 1376 and 1389: *Provided*, That, notwithstanding any other provision of law, none of the funds hereafter appropriated by this joint resolution or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: *Provided further*, That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 30, 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): *Provided further*, That, notwithstanding any other provision of law, such payments shall be based upon rate orders applicable to such carriers as of July 1, 1982, but shall not exceed \$13,500,000 in the aggregate: *Provided further*, That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a percentage which is the same for all carriers eligible for such payments: *Provided further*, That nothing in this joint resolution shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this joint resolution, in which event the standards and procedures set forth in section 419(a)(11)(A) shall apply.

49 USC 1376.

49 USC 1389.

SEC. 131. Sections 308(g) and 308a(c) of title 35, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "December 17, 1982".

37 USC 308,  
308a.

SEC. 132. Notwithstanding any other provision of this joint resolution, there are appropriated \$39,000,000 for fiscal year 1983 to carry out section 317(j)(1) of the Public Health Service Act, relating to preventive health service programs to immunize children against immunizable diseases.

42 USC 247b.

SEC. 133. (a) In accordance with section 101(b) of this joint resolution, activities under title XV of the Public Health Service Act shall be continued at a rate to maintain current operating levels.

42 USC 300k-1.

(b) Notwithstanding any other provision of law, no funds appropriated by this joint resolution or any other Act for fiscal year 1983 for any allotment, grant, loan, or loan guarantee under the Public Health Service Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be subject to reduction under section 1521(d)(2) of the Public Health Service Act during the period beginning on October 1, 1982, and ending on the date specified in clause (c) of section 102.

42 USC 201 note.

42 USC 4541

note.

42 USC 300m.

SEC. 134. Notwithstanding any other provision of this joint resolution, there are appropriated \$34,000,000 to carry out section 786 of the Public Health Service Act.

42 USC 295g-6.

SEC. 135. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary shall be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds to support an annual operating level for Medicare claims processing activities of \$800,000,000, including \$45,000,000 for this purpose which is currently available under section 118 of Public Law 97-248.

Funds, transfer.

SEC. 136. Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut

Ante, p. 355.

42 USC 1395h  
note.

- 42 USC 1320b-2 and note. against Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983, any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision in any case filed prior to September 30, 1982 shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal years 1984 through 1986.
- 42 USC 1305. SEC. 137. Notwithstanding any other provision of this joint resolution, there are appropriated \$18,000,000 for fiscal year 1983 to carry out the Runaway and Homeless Youth Act.
- 95 Stat. 511. SEC. 138. Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1983 to carry out the Community Services Block Grant Act of 1981, not more than 10 per centum of the funds allotted to each State under section 674 of such Act shall be used for purposes other than to make grants to eligible entities as defined in section 673(1) of such Act or to organizations serving seasonal and migrant farmworkers or to designated limited purpose agencies which meet the requirements of section 673(1) of such Act.
- 42 USC 9901 note. SEC. 139. Notwithstanding any other provision of this joint resolution, unobligated funds from fiscal year 1982 appropriations provided for closeout activities of the Community Services Administration are to remain available through September 30, 1983.
- 95 Stat. 512. SEC. 140. Notwithstanding section 5(b)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress), not later than thirty days after the beginning of the fiscal year, the Secretary of Education shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3 of such Act, make to such agency a payment of not less than—
- 95 Stat. 511. (1) in the case of a local educational agency described in section 3(d)(1)(A) of such Act, 75 per centum of the amount that such agency received during such preceding fiscal year; and
- 42 USC 9902. (2) in the case of any other local educational agency, 50 per centum of the amount that such agency received during such preceding fiscal year.
- Community Services Administration closeout expenses. SEC. 141. Notwithstanding any other provision of this joint resolution or section 512(b) of the Omnibus Budget Reconciliation Act of 1981, there are appropriated \$9,000,000 for fiscal year 1983 to carry out subpart 2 of part H of title XIII of the Education Amendments of 1980 and section 528(5) of the Omnibus Budget Reconciliation Act of 1981, which shall remain available for obligation until September 30, 1988.
- 20 USC 240 note. SEC. 142. Notwithstanding any other provision of this joint resolution, there is hereby appropriated \$5,000,000 under title III of the United States Public Health Service Act for Nursing Research activities.
- 20 USC 240. 42 USC 241.
- 20 USC 237, 238.
- 95 Stat. 444.
- 94 Stat. 1502.
- 95 Stat. 450.

SEC. 143. Section 93 of title 14, United States Code, is amended by (1) striking out “and” at the end of subsection (p); (2) striking out the period at the end of subsection (q) and inserting in lieu thereof “; and”; and (3) adding at the end thereof the following new subsection: “(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.”.

SEC. 144. Notwithstanding any other provision of this joint resolution, except section 102, funds shall be available for the United States Travel and Tourism Administration at an annual rate of \$7,600,000.

SEC. 145. Notwithstanding any other provision of this joint resolution, the head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

Loan guarantee.

SEC. 146. Notwithstanding any other provision of law or this joint resolution, no change in the regulations subject to the moratorium required by section 135 of Public Law 97-248 shall be promulgated in final form until one hundred and twenty days after the expiration of the moratorium, during which period the Department of Health and Human Services shall seek public review and comment on any such proposed regulations and consult with the appropriate Committees of Congress.

Proposed regulations, review and comment.  
*Ante*, p. 375.

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

SEC. 148. Notwithstanding any other provision of this joint resolution, for necessary expenses for the National Oceanic and Atmospheric Administration (NOAA) to operate the civilian land remote sensing satellite system (LANDSAT), \$13,555,000 above the rate provided by section 101(a) of this joint resolution, shall remain available until expended.

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of “Contributions for International Peacekeeping Activities” not more than \$50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Assistance Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: *Provided*, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that an internationally acceptable agreement has been achieved among the parties to the Namibia dispute concerning implementation of United Nations Security Council Resolution 435 for the independence of Namibia.

Peacekeeping activities.  
Report to Congress.

22 USC 2680.

SEC. 150. Notwithstanding any other provisions of this joint resolution, \$365,000 shall be made available for the National Security Council, effective October 1, 1982, for the operations of the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board.

Effective date.

Funds, transfer.

95 Stat. 1413.

20 USC 956.

SEC. 151. \$5,200,000 of the funds appropriated to the National Endowment for the Humanities for "Salaries and expenses" in Public Law 97-100 are hereby transferred to "Matching Grants" for the purposes of section 7(h) of the National Foundation on the Arts and the Humanities Act of 1965, as amended. Such funds shall remain available until September 30, 1984.

SEC. 151. (a) Section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of forty hours in an administrative workweek."

(b) Section 5532 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train others to perform such duties.

Effective date.

"(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers performing duties under the administrative authority of such Administrator."

(c)(1) Chapter 55 of title 5, United States Code, is amended by inserting after section 5546 the following new section:

5 USC 5546a.

**"§ 5546a. Differential pay for certain employees of the Federal Aviation Administration**

"(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') may pay premium pay at the rate of 5 per centum of the applicable rate of basic pay to—

"(1) any employee of the Federal Aviation Administration who is—

"(A) occupying a position in the air traffic controller series classified not lower than GS-9 and located in an air traffic control center or terminal or in a flight service station;

"(B) assigned to a position classified not lower than GS-09 or WG-10 located in an airway facilities sector; or

"(C) assigned to a flight inspection crew-member position classified not lower than GS-11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

"(2) any employee of the Federal Aviation Administration who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator to be unusually

taxing, physically or mentally, and to be critical to the advancement of aviation safety.

“(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.”.

(2) The analysis of chapter 55 of such title is amended by inserting after the item relating to section 5546 the following new item: “5546a. Differential pay for certain employees of the Federal Aviation Administration.”.

(d) Section 5546a of title 5, United States Code (as added by section 152(c) of this joint resolution), is amended by adding at the end thereof the following new subsections:

“(c)(1) The Administrator may pay premium pay to any employee of the Federal Aviation Administration who— Premium pay.

“(A) is an air traffic controller located in an air traffic control center or terminal;

“(B) is not required as a condition of employment to be certified by the Administrator as proficient and medically qualified to perform duties including the separation and control of air traffic; and

“(C) is so certified.

“(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

“(d)(1) The Administrator may pay premium pay to any air traffic controller of the Federal Aviation Administration who is assigned by the Administrator to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

“(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration provides on-the-job training.

“(e)(1) The Administrator may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

“(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

“(f)(1) The Administrator shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration are to be paid premium pay under this section.

“(2) The Administrator may prescribe such rules as he determines are necessary to carry out the provisions of this section.”.

(e) Section 5547 of title 5, United States Code, is amended by adding at the end thereof the following: “The first sentence of this section shall not apply to any employee of the Federal Aviation Administration who is paid premium pay under section 5546a of this title.”.

*Ante*, p. 1200.

(f) Section 8339(e) of title 5, United States Code, is amended by inserting before the period “unless such employee has received, pursuant to section 8342 of this title, payment of the lump-sum credit attributable to deductions under section 8334(a) of this title during any period of employment as an air traffic controller and such employee has not deposited in the Fund the amount received, with interest, pursuant to section 8334(d) of this title”.

(g) Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b), (c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train other individuals to perform such duties.

“(2) Paragraph (1) of this subsection shall apply only in the case of any annuitant receiving an annuity from the Fund who, before August 3, 1981, applied for retirement or separated from the service while being entitled to an annuity under this chapter.”.

(h)(1) The amendments made by subsections 152(b), (c), (e), and (g) of this joint resolution shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

(2) The amendments made by subsection 152(a) and subsection 152(d) of this joint resolution shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution.

(3) The amendment made by subsection 152(f) of this joint resolution shall take effect on the date of the enactment of this joint resolution.

SEC. 152. Notwithstanding any other provision of this joint resolution, there is appropriated \$190,000, to remain available until expended, for necessary expenses to carry out section 301 of the Native Hawaiians Study Commission Act, Public Law 96-565.

SEC. 153. Title IV of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.) is amended by adding after section 625 the following new section:

“SEC. 626. (a) In order to monitor and enforce export measures required by a foreign government or customs union, pursuant to an international arrangement with the United States, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel mill products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.

“(b) This section applies only to requests received by the Secretary of the Treasury prior to January 1, 1983, and for the duration of the arrangements.”.

5 USC 8342.  
5 USC 8334.

*Ante*, p. 1200.

Effective dates.  
5 USC 5546a  
note.

5 USC 5546a  
note.

5 USC 8339 note.

42 USC 2991a  
note.

Export license.  
19 USC 1626.

SEC. 154. (a) Subpart J of part I of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 522.51 the following new item:

19 USC 1202  
note.

“ 522.53 | Steam..... | Free | | Free | ”.

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which is fifteen days after the date of enactment of this joint resolution.

SEC. 155. For the purposes of the Immigration and Nationality Act, Tessie and Enrique Marfori shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this joint resolution, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this joint resolution, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

Alien  
admittance.  
8 USC 1101 note.

8 USC 1153.

8 USC 1152.

SEC. 156. Notwithstanding any other provision of this joint resolution, there is appropriated \$518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Highways, and \$365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Transit: *Provided*, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

SEC. 157-158. Since the United States Congress established the Social Security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Medicare.

Since Medicare was made part of the Social Security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for the aged; and

Since medicare is an insurance program in which working Americans contribute their Social Security payroll taxes and in which the elderly and disabled pay health insurance premiums in order to receive health benefits promised under this insurance plan; and

Since proposals to limit eligibility for Medicare health benefits to lower-income persons would profoundly alter the character of health insurance for the aged and disabled by removing the insurance principle from the Medicare program.

It is the sense of the Senate that the Congress should reject any proposal to impose a “means test” on eligibility for the Medicare program or benefits provided by the Medicare program.

SEC. 159. Any amount remaining on September 30, 1982, from the contract authority and budget authority made available for use as provided in the third proviso under the heading, “Annual Contributions for Assisted Housing (Rescission)”, in the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216), shall remain available for obligation in accordance with the terms of such proviso, except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to January 1,

*Ante*, p. 183.

1983: *Provided*, That none of the amounts available for obligation in accordance with the foregoing shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

SEC. 160. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 161. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "the expiration of this joint resolution".

SEC. 162. Notwithstanding any other provisions of this joint resolution, except section 102, amounts which are available by section 101 for continuing activities conducted in 1982 under the Comprehensive Employment and Training Act of 1973, as amended, are hereby also made available to continue those activities under the provisions of S. 2036 as reported by the Committee of Conference.

SEC. 163. None of the funds provided in this joint resolution shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

SEC. 164. Notwithstanding section 1804 of the Public Health Service Act, funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research by the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) shall remain available until December 31, 1982.

SEC. 165. Notwithstanding any other provision of law, effective for the calendar year ending December 31, 1982, the Sergeant at Arms and Doorkeeper of the Senate is authorized to pay, from funds available to him in the account (within the contingent fund of the Senate) for "Miscellaneous Items", the increase in the mileage tariff rates imposed, effective October 1981, by the General Services Administration for telephone service provided through its Federal Telecommunications System during such calendar year to Senators in the States they represent. If and to the extent that there has been paid, from the Official Office Expense Account of any Senator, an amount which is authorized to be paid under the preceding sentence, then the Sergeant at Arms and Doorkeeper of the Senate shall reimburse such Expense Account of such Senator by a sum equal to such amount, upon certification and documentation (consisting of appropriate data supplied by the General Services Administration) by such Senator. Payments made under this section shall be made upon vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 166. None of the funds appropriated under this joint resolution or any other provisions of law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government.

SEC. 167. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

29 USC 801 note.

Restrictions.

42 USC 300v-3.

*Ante*, p. 182.  
Telephone  
service,  
payment.

Restrictions.

*Ante*, p. 681.  
49 USC 2207.



**“(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.**

*Ante*, p. 682.  
49 USC 2208.

**“(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).**

*Ante*, p. 676.  
49 USC 2204.

**“(3) For the purposes of carrying out this subsection—**

*Ante*, p. 681.  
49 USC 2207.

**“(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of \$1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and**

**“(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph.”**

*Ante*, p. 677.  
49 USC 2205.

Approved October 2, 1982.

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#### LEGISLATIVE HISTORY—H.J. Res. 599:

HOUSE REPORTS: No. 97-834 (Comm. on Appropriations) and No. 97-914 (Comm. of Conference).

SENATE REPORT No. 97-581 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 22, considered and passed House.

Sept. 28, 29, considered and passed Senate, amended.

Oct. 1, House agreed to conference report; concurred in certain Senate amendments, and in others with amendments. Senate agreed to conference report; concurred in House amendments.

Public Law 97-277  
97th Congress

## Joint Resolution

Oct. 4, 1982  
[H.J. Res. 496]To provide for the designation of the week beginning on November 21, 1982, as  
"National Alzheimer's Disease Week".

Whereas Alzheimer's disease produces senile dementia in 15 percent of all individuals who have attained the age of 65 and is responsible for over 50 percent of all nursing home admissions;

Whereas more than one million five hundred thousand American adults are affected by this surprisingly common disorder that destroys certain vital cells in the brain;

Whereas more than \$20,000,000,000 is spent annually in treating the ravages of Alzheimer's disease;

Whereas one parent in one out of three families will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease may stimulate the interest and concern of the American people which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

National  
Alzheimer's  
Disease Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning on November 21, 1982, is designated as "National Alzheimer's Disease Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Approved October 4, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 496 (S.J. Res. 225):

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 21, considered and passed House.

Sept. 24, considered and passed Senate.

Public Law 97-278  
97th Congress

An Act

Granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

Oct. 4, 1982  
[H.R. 5288]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress consents to the compact entered into between the States of New Hampshire and Vermont providing for cooperative agreements to construct and operate facilities for the processing or disposal of solid waste, and to carry out related purposes, which compact was approved by the State of New Hampshire on June 23, 1981, and by the State of Vermont on April 16, 1981. Such compact is substantially as follows:

New Hampshire  
and Vermont  
compact.  
Congressional  
consent.

“ARTICLE I

“A. Statement of Policy.

“It is recognized that municipalities in New Hampshire and Vermont may, in order to avoid duplication of cost and effort, and, in order to take advantage of economies of scale, find it necessary or desirable to enter into an agreement whereby joint solid waste disposal and resource recovery facilities are constructed and maintained. The States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to capture the economic benefits of reduced solid waste disposal costs and to enhance the economy through a reduction in demand for imported energy and the promotion of employment. Furthermore, the States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to maintain a safe and healthy environment, including a clean and renewable supply of the water resources.

“B. Requirement of Administrative and Congressional Approval.

“This compact shall not become effective until approved by the Administrator of the United States Environmental Protection Agency and the United States Congress.

“C. Definitions.

“1. ‘Resource recovery facility’ shall mean any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise, separating and preparing solid waste for reuse.

“2. ‘Municipalities’ shall mean in Vermont, a municipality as defined in 1 V.S.A. § 126 and a union municipal district established under the authority of 24 V.S.A. Chapter 121; shall mean in New Hampshire, a public agency as defined in RSA 53-A:2 and a regional refuse disposal district established under the authority of RSA 53-B.

“3. ‘Solid waste agencies’ shall mean those agencies within New Hampshire and Vermont possessing authority to regulate solid waste disposal and to administer the Resource Conservation and Recovery Act of 1976, as amended (42 USCA Chapter 82).

42 USC 6901  
et seq.

42 USC 6944.

"4. 'Sanitary landfills' shall mean a facility for the disposal of solid waste which meets the criteria published under 42 USCA § 6944 of the Resource Conservation and Recovery Act of 1976, as amended.

"5. 'Solid waste' shall mean any garbage, refuse, metal goods, tires, demolition and construction waste, yard waste, and sludge from a waste water treatment plant, or other discarded materials, possessing no value to the producer in its present form where it is located, produced by normal residential, commercial, and industrial activities, but does not include hazardous waste.

"6. 'Hazardous waste' shall mean any solid, semi-solid, liquid, or contained gaseous waste, or any combination of these wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, or any waste classified as hazardous at any time under applicable laws and regulations of the United States, New Hampshire, and Vermont or any subdivision thereof pursuant to a valid grant of authority.

## "ARTICLE II

### "PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

#### "A. Cooperative Agreements Authorized.

"Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of a resource recovery facility or sanitary landfill or both, and those related services needed for the efficient operation thereof. The agreement may also include the sale of energy and other byproducts.

#### "B. Approval of Agreements.

"Any agreement entered into under this compact shall, prior to becoming effective, be approved by the solid waste agencies of both New Hampshire and Vermont as in conformance with each State's solid waste management plan.

#### "C. Method of Adopting Agreements.

"Agreements hereunder shall be adopted in accordance with existing statutory procedures for the adoption of intergovernmental agreements between municipalities within each State, and further in New Hampshire, as provided in RSA 53-B.

#### "D. Review and Approval of Plans.

"The solid waste agencies of the State in which any part of a solid waste disposal and resource recovery facility which is proposed under an agreement pursuant to this compact is proposed to be or is located is hereby authorized and required, to the extent such authority exists under its State law to assure that the proposed facility is compatible with the existing State plan.

**“E. Contents of Agreements.**

“Agreements entered into pursuant to this compact shall contain the following:

“1. Duration of the agreement.

“2. Purpose of the agreement.

“3. Provision for a joint board and/or administrator, responsible for administering the cooperative undertaking and the powers to be exercised thereby. All municipalities party to the agreement shall be represented.

“4. The manner of acquiring, holding, and disposing of real and personal property used in the cooperative undertaking.

“5. The manner of financing the cooperative undertaking and establishing a budget therefor.

“6. The manner and method of establishing and imposing fair and equitable charges for the users of the facilities.

“7. A provision establishing a procedure for the arbitration of disputes.

“8. The conditions and procedure under which a municipality may withdraw from or be added to a cooperative agreement.

“9. The manner in which the agreement may be amended.

“10. The methods to be employed in the termination of the agreement and for disposing of property upon termination.

**“ARTICLE III****“EFFECTIVE DATE**

“A. This compact shall become effective when ratified by New Hampshire and Vermont and approved by the United States Congress.”.

SEC. 2. Nothing contained in the compact described in the first section of this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the agreement.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

Approved October 4, 1982.

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**LEGISLATIVE HISTORY—H.R. 5288:**

HOUSE REPORT No. 97-724 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 16, considered and passed House.

Sept. 20, considered and passed Senate.

Public Law 97-279  
97th Congress

Joint Resolution

Oct. 4, 1982  
[S.J. Res. 193]

Designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week".

Whereas respiratory therapy is recognized as one of the most modern and progressive segments of the health care delivery system in the United States;

Whereas there are over eighty thousand respiratory therapy practitioners in the Nation who are making an important contribution to the delivery of quality health care;

Whereas respiratory therapists are involved with therapeutic and life-sustaining cardiopulmonary care to patients suffering from lung and associated heart disorders; and

Whereas in recent years the field of respiratory therapy has expanded to include postoperative pulmonary care, education, research, pulmonary testing, pulmonary rehabilitation, and neonatal-pediatric specialties: Now, therefore, be it

National  
Respiratory  
Therapy Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of November 7 through November 13, 1982, is designated as "National Respiratory Therapy Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate activities.

Approved October 4, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 193:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 24, considered and passed Senate.  
Sept. 21, considered and passed House.

Public Law 97-280  
97th Congress

Joint Resolution

Authorizing and requesting the President to proclaim 1983 as the "Year of the Bible".

Oct. 4, 1982  
[S.J. Res. 165]

Whereas the Bible, the Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed nation and people;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;

Whereas many of our great national leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—paid tribute to the surpassing influence of the Bible in our country's development, as in the words of President Jackson that the Bible is "the rock on which our Republic rests";

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the Scriptures in the lives of individuals, families, and societies;

Whereas this Nation now faces great challenges that will test this Nation as it has never been tested before; and

Whereas that renewing our knowledge of and faith in God through Holy Scripture can strengthen us as a nation and a people: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to designate 1983 as a national "Year of the Bible" in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures.

Year of the  
Bible.

Approved October 4, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 165:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 31, considered and passed Senate.

Sept. 21, considered and passed House.

Public Law 97-281  
97th Congress

## Joint Resolution

Oct. 5, 1982

[H.J. Res. 568]

To provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day".

Whereas October 5, 1982, marks the 100th anniversary of the birth of Dr. Robert H. Goddard, the father of the space age;

Whereas this rocket pioneer's persevering pursuit of new knowledge has led us to orbit the Earth, to walk the Moon's surface, to fill the skies with countless tools for communications and scientific inquiry;

Whereas he was the first to explore the practicality of using rocket power to reach high altitudes;

Whereas he was the first to launch a liquid propellant rocket; Whereas he was the first to develop gyrosteering apparatus, pumps, rocket motors and landing devices;

Whereas he was the first to dream the dream of jet-driven aircraft and interplanetary/interstellar space travel;

Whereas he neither sought, nor received public acclaim or financial reward during his lifetime; and

Whereas the Worcester Area Chamber of Commerce, Clark University and Worcester Polytechnic Institute in cooperation with the Worcester County Convention and Visitors Bureau and the Center of Business Information will honor Dr. Robert H. Goddard with a centennial celebration in Worcester, Massachusetts, on October 5, 6, and 7, 1982: Now, therefore, be it

Dr. Robert H.  
Goddard Day.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That October 5, 1982, is designated as "Dr. Robert H. Goddard Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 5, 1982.

LEGISLATIVE HISTORY—H.J. Res. 568:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.



Public Law 97-282  
97th Congress

Joint Resolution

To authorize and request the President to designate October 16, 1982, as "World Food Day".

Oct. 5, 1982  
[S.J. Res. 174]

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world are those who are suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;

Whereas efforts to resolve the world hunger problems are critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the first World Food Day on October 16, 1981, was supported by proclamations of the Governors of all fifty States, a resolution of Congress, a Presidential proclamation, efforts of the United States Department of Agriculture, and by more than one hundred and seventy-five national private and voluntary organizations; and

Whereas the one hundred and fifty-two nations of the Food and Agriculture Organization of the United Nations designated October 16, 1982, as "World Food Day" because of the need to alert the

public to the increasingly dangerous world food situation: Now, therefore, be it

World Food Day. *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating October 16, 1982, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

Approved October 5, 1982.

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**LEGISLATIVE HISTORY—S.J. Res. 174:**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 15, considered and passed Senate.  
Sept. 21, considered and passed House.

Public Law 97-283  
97th Congress

An Act

To further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico.

Oct. 5, 1982  
[S. 2405]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

Cibola National  
Forest, N. Mex.  
Land exchange  
and boundary  
extension.

(a) Delete all of section 1 and insert the following language in lieu thereof:

"All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled 'Summary Plat of a Portion of the Elena Gallegos Grant' (the 'Summary Plat'), recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight pages, said line being the western limits of the tract described herein being further described as follows: Beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, New Mexico principal meridian, on the south boundary of said grant; thence north 00 degrees 03 minutes 21 seconds east, 2,670.40 feet to a point; thence north 00 degrees 03 minutes 21 seconds east, 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along the projected section line common to said sections 25 and 26, north 00 degrees 17 minutes 37 seconds east, 1,346.11 feet to a point; thence leaving said section line and continuing south 84 degrees 40 minutes 00 seconds east, 178.00 feet to a point; thence south 53 degrees 20 minutes 00 seconds east, 218.00 feet to a point; thence north 52 degrees 50 minutes 00 seconds east, 364.00 feet to a point; thence east 225.00 feet to a point; thence north 66 degrees 00 minutes 00 seconds east, 1,244.14 feet to a point; thence north 06 degrees 12 minutes 25 seconds west, 1,765.08 feet to a point; thence north 07 degrees 27 minutes 00 seconds west, 2,008.00 feet to a point; thence south 80 degrees 38 minutes 00 seconds west, 984.00 feet to a point; thence south 64 degrees 45 minutes 00 seconds west, 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence north 00 degrees 44 minutes 22 seconds west, 1,382.97 feet to the southeast corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, north 00 degrees 04 minutes 20 seconds east, 1,951.64 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, north 00 degrees 02 minutes 31 seconds east, 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of

Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, north 00 degrees 03 minutes 29 seconds east, 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, north 00 degrees 03 minutes 29 seconds east, 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, north 00 degrees 03 minutes 29 seconds east, 1,725.76 feet to the northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant: *Provided, however*, That the tract of land described in this section not be included within the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired a tract of land containing approximately six hundred and forty acres located in such tract for open space or city park use.”.

92 Stat. 3095.

(b) Add a new section 5 to read as follows:

“SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the city of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the city of Albuquerque.

“(b) The lands to be conveyed are subject to valid existing rights.

“(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided*, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.”.

43 USC 1701  
note.

Approved October 5, 1982.

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LEGISLATIVE HISTORY—S. 2405:

SENATE REPORT No. 97-539 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 17, considered and passed Senate.  
Sept. 23, considered and passed House.

Public Law 97-284  
97th Congress

## Joint Resolution

Oct. 5, 1982  
[H.J. Res. 486]

Authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982".

Whereas twenty-two million students are transported by schoolbus to and from school each day;

Whereas the safety of these students deserves the highest priority; and

Whereas a national program is underway to call public attention to the importance of schoolbus safety during the week of October 3, 1982, through October 9, 1982: Now, therefore, be it

National  
Schoolbus Safety  
Week of 1982.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982" and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

Approved October 5, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 486:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 21, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-285  
97th Congress

An Act

To amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes.

Oct. 6, 1982  
[S. 907]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) subsection (a) of section 351 of title 18 of the United States Code is amended to read as follows:

Penalties for crimes against governmental officials.

“(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.”

5 USC 101.

28 USC 451.

(b) Section 351 of title 18 of the United States Code is amended by adding at the end the following:

18 USC 1111,  
1112.

“(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

“(i) There is extraterritorial jurisdiction over the conduct prohibited by this section.”

SEC. 2. (a) The section heading of section 351 of title 18 of the United States Code is amended to read as follows:

**“§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties”.**

(b) In the table of sections at the beginning of chapter 18 of title 18 of the United States Code, the item relating to section 351 is amended to read as follows:

“351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties.”

(c) The chapter heading of chapter 18 of title 18 of the United States Code is amended to read as follows:

**“CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT”.**

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 18 reads as follows:

**“18. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault ..... 351”.**

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out “(violations with respect to congressional” and all that follows through “assault)” and inserting in lieu thereof the following: “(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)”.

SEC. 3. (a) Subsection (a) of section 1751 of title 18 of the United States Code is amended to read as follows:

“(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.”.

(b) Subsection (e) of section 1751 of title 18 of the United States Code is amended to read as follows:

“(e) Whoever assaults any person designated in subsection (a)(1) shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.”.

(c) Subsection (g) of section 1751 of title 18 of the United States Code is amended by striking out “this section” and inserting in lieu thereof “subsection (a)(1)”.

(d) Section 1751 of title 18 of the United States Code is amended by adding at the end the following:

“(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

“(k) There is extraterritorial jurisdiction over the conduct prohibited by this section.”.

SEC. 4. (a) The section heading of section 1751 of title 18 of the United States Code is amended to read as follows:

**“§ 1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties”.**

(b) In the table of sections at the beginning of chapter 84 of title 18 of the United States Code the item relating to section 1751 is amended to read as follows:

“1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties”.

(c) The heading of chapter 84 of title 18 of the United States Code is amended to read as follows:

**“CHAPTER 84—PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING, AND ASSAULT”.**

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 84 reads as follows:

3 USC 105.

3 USC 106.

18 USC 1111,  
1112.

Fines or  
imprisonment.



**"84. Presidential and Presidential staff assassination, kidnaping, and assault..... 1751".**

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(Presidential assassinations, kidnapping, and assault)" and inserting in lieu thereof "(Presidential and Presidential staff assassination, kidnaping, and assault)".

Approved October 6, 1982.

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**LEGISLATIVE HISTORY—S. 907:**

HOUSE REPORT No. 97-803 (Comm. on the Judiciary).  
SENATE REPORT No. 97-320 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 5, considered and passed Senate.  
Sept. 14, considered and passed House, amended.  
Sept. 22, Senate concurred in House amendment.

Public Law 97-286  
97th Congress

An Act

Oct. 6, 1982  
[S. 2271]

National Bureau  
of Standards  
Authorization  
Act for Fiscal  
Year 1983.

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1983".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

- (1) Measurement Research and Standards, for fiscal year 1983, \$50,389,000.
- (2) Engineering Measurements and Standards, for fiscal year 1983, \$20,807,000.
- (3) Computer Science and Technology, for fiscal year 1983, \$10,000,000.
- (4) Core Research Program for Innovation and Productivity, for fiscal year 1983, \$11,188,000.
- (5) Technical Competence Fund, for fiscal year 1983, \$6,986,000.
- (6) Fire Research Center, for fiscal year 1983, \$4,991,000.
- (7) Central Technical Support, for fiscal year 1983, \$13,500,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal year 1983:

- (1) of the total amount authorized under subsection (a)(4) not less than \$3,000,000 shall be available for "Metals Processing";
- (2) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than \$1,000,000 shall be available for "Measurement Standards for the Handicapped";
- (3) of the total amount authorized under subsection (a)(3), not less than \$10,000,000 shall be available for "Computer Science and Technology"; and
- (4) of the total amount authorized under subsection (a)(4), \$3,200,000 for "Robotics Research and Development".

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, not more than \$500,000 is authorized for fiscal year 1983 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

## NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, the sum of \$1,980,000 is authorized to be appropriated to the Assistant Secretary to carry out activities performed by the National Technical Information Service.

## OFFICE OF PRODUCTIVITY, TECHNOLOGY AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of \$1,898,000 is authorized to be appropriated to the Assistant Secretary for fiscal year 1983 for the purpose of research, development, and related activities in the field of innovation and productivity.

## SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1983 and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

## AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

## ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 8. The Secretary of Commerce shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute, enacted before, on, or after the date of enactment of this Act, which names the Secretary or the Bureau as a consultant to another Government agency, or calls upon the Secretary or the Bureau to support or perform any activity for or on behalf of another Government agency, or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau by such other Government agency for such service, unless funds are specifically appropriated to the Secretary or the Bureau to perform such service. The

15 USC 275b.

Waiver.

Secretary may, however, waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

Approved October 6, 1982.

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**LEGISLATIVE HISTORY—S. 2271 (H.R. 5726):**

HOUSE REPORT No. 97-501 accompanying H.R. 5726 (Comm. on Science and Technology).

SENATE REPORT No. 97-337 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 29, considered and passed Senate.

May 19, H.R. 5726 considered and passed House; proceedings vacated and S. 2271, amended, passed in lieu.

Aug. 12, Senate concurred in House amendment with amendments.

Sept. 22, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 40 (1982):

Oct. 7, Presidential statement.

Public Law 97-287  
97th Congress

An Act

To authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes.

Oct. 6, 1982

[H.R. 3589]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subject to the approval of the Secretary of the Interior and to the provisions of this Act, the Navajo Tribe is authorized to exchange any surface interests of such Tribe in the lands described in subsection (b) for surface interests of the United States in lands described in subsection (c) which are approximately equal in value to such tribal interests.

Navajo Tribe.  
Land exchange.

(b) Lands located within the following New Mexico principal meridian townships are described in this subsection:

Township 8 north, range 12 west;  
Township 8 north, range 11 west;  
Township 7 north, range 12 west;  
Township 7 north, range 11 west;  
Township 6 north, range 12 west;  
Township 7 north, range 5 west;  
Township 6 north, range 5 west;  
Township 6 north, range 4 west;  
Township 6 north, range 3 west; and  
Township 7 north, range 3 west.

(c) The lands described in this subsection are the lands withdrawn for exchange by Public Land Order 5721 (Federal Register, May 2, 1980, pages 29295-29297) other than the following lands:

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28, southwest quarter;

Township 16 north, range 10 west, New Mexico principal meridian: section 6, southeast quarter; and section 18, northeast quarter; and

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter;

Sec. 2. Any interests in lands acquired by the Navajo Tribe under section 1(a) shall be held by the Secretary of the Interior in trust for the benefit and use of the Navajo Tribe.

Lands in trust.

Sec. 3. (a) Lands received by the Navajo Tribe in an exchange under section 1(a) shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe with regard to the location, scope, and use of such easement or right-of-way.

Easements or  
rights-of-way.

(b) Nothing in this Act shall affect—

- (1) the mineral interests of any person, or
- (2) any easement or other rights of any person (other than the United States or the Navajo Tribe),

in lands exchanged under section 1(a) which existed prior to the enactment of this Act. The development of such interests and the exercise of such rights may only be controlled by the Navajo Tribe or the Secretary of the Interior to the same extent that such development or exercise could have been controlled by the Secretary of the Interior prior to the enactment of this Act.

SEC. 4. (a) No exchange shall be made under section 1(a) if, at the time such exchange is proposed, the value of the interests in lands described in section 1(b) which are proposed to be exchanged exceeds an amount equal to 125 percent of the value of interests in lands described in section 1(c) which are proposed to be exchanged.

(b)(1) If, at the time of an exchange under section 1(a), the value of the interests in lands described in section 1(b) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(c) which are exchanged under section 1(a), the Secretary of the Interior shall pay to the Navajo Tribe an amount equal to such excess value.

(2) If, at the time of any exchange under section 1(a), the value of the interests in lands described in section 1(c) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(b) which are exchanged under section 1(a), the Navajo Tribe shall pay to the United States an amount equal to such excess value.

Appropriation  
authorization.

SEC. 5. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of section 4(b)(1).

Approved October 6, 1982.

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**LEGISLATIVE HISTORY—H.R. 3589:**

HOUSE REPORT: No. 97-616 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, considered and passed House.

Aug. 20, considered and passed Senate, amended.

Sept. 23, House concurred in Senate amendment.

Public Law 97-288  
97th Congress

An Act

To declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service.

Oct. 6, 1982  
[H.R. 5081]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Washoe Tribe  
of Nev.-Calif.  
Lands in trust;  
other lands,  
transfer to U.S.  
Forest Service.

Township 14 North, Range 19 East, Mount Diablo Meridian,  
Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian,  
Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian,  
Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32.

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west, along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres, more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;



thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

- (1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and
- (2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian,  
Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

Approved October 6, 1982.

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LEGISLATIVE HISTORY—H.R. 5081 (S. 1858):

HOUSE REPORT No. 97-598 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-509 accompanying S. 1858 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, considered and passed House.

Aug. 19, S. 1858, considered and passed Senate; H.R. 5081, amended, passed in lieu.

Sept. 23, House concurred in Senate amendment.

Public Law 97-289  
97th Congress

Joint Resolution

Oct. 6, 1982  
[H.J. Res. 612]

To provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE  
INSURANCE PROGRAMS

Housing and  
community  
development,  
extension of  
insurance  
programs.

12 USC 1703.

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1982" in the first sentence and inserting in lieu thereof "May 21, 1983".

12 USC 1715h.

(b) Section 217 of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

12 USC 1715l.

(c) Section 221(f) of such Act is amended by striking out "September 30, 1982" in the fifth sentence and inserting in lieu thereof "May 20, 1983".

12 USC 1715z.

(d) Section 235 of such Act is amended—

(1) in subsection (h)(1), by striking out "September 30, 1982" each place it appears in the fourth sentence and inserting in lieu thereof "May 20, 1983";

(2) in subsection (m), by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983"; and

(3) in subsection (q)(1), by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

12 USC 1715z-1.

(e) Section 236(n) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

12 USC 1715z-9.

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1982" in the first sentence and inserting in lieu thereof "May 20, 1983"; and

(2) by striking out "October 1, 1982" in the second sentence and inserting in lieu thereof "May 21, 1983".

12 USC 1715z-10.

(g) Section 245(a) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

12 USC 1748h-1.

(h) Section 809(f) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

12 USC 1748h-2.

(i) Section 810(k) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

12 USC 1749bb.

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

12 USC 1749aaa.

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

## FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a)(1) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968 (12 U.S.C. 1709-1), is amended by striking out "October 1, 1982" and inserting in lieu thereof "May 21, 1983".

38 USC 1801 *et seq.*

## EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 3. (a) Section 515(b)(5) of the Housing Act of 1949 is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

42 USC 1485.

(b) Section 517(a)(1) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

42 USC 1487.

(c) Section 523(f) of such Act is amended by striking out "September 30, 1982" each place it appears and inserting in lieu thereof "May 20, 1983".

42 USC 1490c.

## OTHER INSURANCE PROGRAMS

SEC. 4. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

42 USC 4026.

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

42 USC 4056.

(c) Section 1201(b)(1) of the National Housing Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

12 USC 1749bbb.

## COMMUNITY DEVELOPMENT DEFINITIONS

SEC. 5. Section 102(a) of the Housing and Community Development Act of 1974 is amended—

42 USC 5302.

(1) in paragraph (4), by striking out "under clause (B) of this paragraph shall continue to" and inserting in lieu thereof "under this paragraph because the population of such city exceeded fifty thousand shall";

(2) in paragraph (4), by striking out "1982" and inserting in lieu thereof "1983"; and

(3) in the second sentence of paragraph (6)—

(A) by striking out "for fiscal year 1982" the first place it appears and inserting in lieu thereof "before October 1, 1983,";

(B) by striking out "for fiscal year 1982" the second place it appears and inserting in lieu thereof "through September 30, 1983,"; and

(C) by striking out "that fiscal year" and inserting in lieu thereof "through such date".

FEDERAL HOME LOAN MORTGAGE CORPORATION

12 USC 1455. SEC. 6. Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

12 USC 1453. “(f) The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not affect the status of the capital stock issued under section 304 as nonvoting common stock.”.

Approved October 6, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 612:**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 29, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-290  
97th Congress

An Act

To encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

Oct. 8, 1982  
[S. 734]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Export trade services, expansion. Export Trading Company Act of 1982.

TITLE I—GENERAL PROVISIONS

SHORT TITLE

SEC. 101. This title may be cited as the “Export Trading Company Act of 1982”.

15 USC 4001 note.

FINDINGS; DECLARATION OF PURPOSE

SEC. 102. (a) The Congress finds that—

15 USC 4001.

(1) United States exports are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every seven dollars of total United States goods produced;

(2) the rapidly growing service-related industries are vital to the well-being of the United States economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and offer the greatest potential for significantly increased industrial trade involving finished products;

(3) trade deficits contribute to the decline of the dollar on international currency markets and have an inflationary impact on the United States economy;

(4) tens of thousands of small- and medium-sized United States businesses produce exportable goods or services but do not engage in exporting;

(5) although the United States is the world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through export trading companies;

(6) export trade services in the United States are fragmented into a multitude of separate functions, and companies attempting to offer export trade services lack financial leverage to reach a significant number of potential United States exporters;

(7) the United States needs well-developed export trade intermediaries which can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(8) the development of export trading companies in the United States has been hampered by business attitudes and by Government regulations;

(9) those activities of State and local governmental authorities which initiate, facilitate, or expand exports of goods and serv-

ices can be an important source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(10) if United States trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad; and

(11) the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.

(b) It is the purpose of this Act to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers, in particular by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies, by permitting bank holding companies, bankers' banks, and Edge Act corporations and agreement corporations that are subsidiaries of bank holding companies to invest in export trading companies, by reducing restrictions on trade financing provided by financial institutions, and by modifying the application of the antitrust laws to certain export trade.

30 USC 181 note.

#### DEFINITIONS

15 USC 4002.

SEC. 103. (a) For purposes of this title—

(1) the term "export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

(2) the term "services" includes, but is not limited to, accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services;

(3) the term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods, when provided in order to facilitate the export of goods or services produced in the United States;

(4) the term "export trading company" means a person, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or any State and which is organized and operated principally for purposes of—

(A) exporting goods or services produced in the United States; or

(B) facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services;

(5) the term “State” means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the term “United States” means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(7) the term “antitrust laws” means the antitrust laws as defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition, and any State antitrust or unfair competition law.

(b) The Secretary of Commerce may by regulation further define any term defined in subsection (a), in order to carry out this title.

#### OFFICE OF EXPORT TRADE IN DEPARTMENT OF COMMERCE

SEC. 104. The Secretary of Commerce shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies. Such office shall provide information and advice to interested persons and shall provide a referral service to facilitate contact between producers of exportable goods and services and firms offering export trade services.

15 USC 4003.

### TITLE II—BANK EXPORT SERVICES

Bank Export  
Services Act.

#### SHORT TITLE

SEC. 201. This title may be cited as the “Bank Export Services Act”.

12 USC 1841  
note.

SEC. 202. The Congress hereby declares that it is the purpose of this title to provide for meaningful and effective participation by bank holding companies, bankers’ banks, and Edge Act corporations, in the financing and development of export trading companies in the United States. In furtherance of such purpose, the Congress intends that, in implementing its authority under section 4(c)(14) of the Bank Holding Company Act of 1956, the Board of Governors of the Federal Reserve System should pursue regulatory policies that—

12 USC 1843  
note.

30 USC 181 note.

*Post*, p. 1236.  
12 USC 1843.

(1) provide for the establishment of export trading companies with powers sufficiently broad to enable them to compete with similar foreign-owned institutions in the United States and abroad;

(2) afford to United States commerce, industry, and agriculture, especially small- and medium-size firms, a means of exporting at all times;

(3) foster the participation by regional and smaller banks in the development of export trading companies; and

(4) facilitate the formation of joint venture export trading companies between bank holding companies and nonbank firms that provide for the efficient combination of complementary

trade and financing services designed to create export trading companies that can handle all of an exporting company's needs.

INVESTMENTS IN EXPORT TRADING COMPANIES

SEC. 203. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) in paragraph (12)(B), by striking out “or” at the end thereof;

(2) in paragraph (13), by striking out the period at the end thereof and inserting in lieu thereof “; or”; and

(3) by inserting after paragraph (13) the following:

“(14) shares of any company which is an export trading company whose acquisition (including each acquisition of shares) or formation by a bank holding company has not been disapproved by the Board pursuant to this paragraph, except that such investments, whether direct or indirect, in such shares shall not exceed 5 per centum of the bank holding company's consolidated capital and surplus.

“(A)(i) No bank holding company shall invest in an export trading company under this paragraph unless the Board has been given sixty days' prior written notice of such proposed investment and within such period has not issued a notice disapproving the proposed investment or extending for up to another thirty days the period during which such disapproval may be issued.

“(ii) The period for disapproval may be extended for such additional thirty-day period only if the Board determines that a bank holding company proposing to invest in an export trading company has not furnished all the information required to be submitted or that in the Board's judgment any material information submitted is substantially inaccurate.

“(iii) The notice required to be filed by a bank holding company shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

“(iv) The Board may disapprove any proposed investment only if—

“(I) such disapproval is necessary to prevent unsafe or unsound banking practices, undue concentration of resources, decreased or unfair competition, or conflicts of interest;

“(II) the Board finds that such investment would affect the financial or managerial resources of a bank holding company to an extent which is likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company, or

“(III) the bank holding company fails to furnish the information required under clause (iii).

“(v) Within three days after a decision to disapprove an investment, the Board shall notify the bank holding company in writing of the disapproval and shall provide a written statement of the basis for the disapproval.

“(vi) A proposed investment may be made prior to the expiration of the disapproval period if the Board issues



written notice of its intent not to disapprove the investment.

“(B)(i) The total amount of extensions of credit by a bank holding company which invests in an export trading company, when combined with all such extensions of credit by all the subsidiaries of such bank holding company, to an export trading company shall not exceed at any one time 10 per centum of the bank holding company’s consolidated capital and surplus. For purposes of the preceding sentence, an extension of credit shall not be deemed to include any amount invested by a bank holding company in the shares of an export trading company.

“(ii) No provision of any other Federal law in effect on October 1, 1982, relating specifically to collateral requirements shall apply with respect to any such extension of credit.

“(iii) No bank holding company or subsidiary of such company which invests in an export trading company may extend credit to such export trading company or to customers of such export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

“(C) For purposes of this paragraph, an export trading company—

“(i) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that any bank holding company which invests in such export trading company may do so under applicable Federal and State banking laws and regulations; and

“(ii) may not engage in agricultural production activities or in manufacturing, except for such incidental product modification including repackaging, reassembling or extracting byproducts, as is necessary to enable United States goods or services to conform with requirements of a foreign country and to facilitate their sale in foreign countries.

“(D) A bank holding company which invests in an export trading company may be required, by the Board, to terminate its investment or may be made subject to such limitations or conditions as may be imposed by the Board, if the Board determines that the export trading company has taken positions in commodities or commodity contracts, in securities, or in foreign exchange, other than as may be necessary in the course of the export trading company’s business operations.

“(E) Notwithstanding any other provision of law, an Edge Act corporation, organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611-631), which is a subsidiary of a bank holding company, or an agreement corporation, operating subject to section 25 of the Federal Reserve Act (12 U.S.C. 601-604(a)), which is a subsidiary of a bank holding company, may invest directly and indirectly in the aggregate up to 5 per centum of its consolidated capital and

surplus (25 per centum in the case of a corporation not engaged in banking) in the voting stock of other evidences of ownership in one or more export trading companies.

Definitions.

“(F) For purposes of this paragraph—

“(i) the term ‘export trading company’ means a company which does business under the laws of the United States or any State, which is exclusively engaged in activities related to international trade, and which is organized and operated principally for purposes of exporting goods or services produced in the United States or for purposes of facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services.

“(ii) the term ‘export trade services’ includes, but is not limited to, consulting, international market research, advertising, marketing, insurance (other than acting as principal, agent or broker in the sale of insurance on risks resident or located, or activities performed, in the United States, except for insurance covering the transportation of cargo from any point of origin in the United States to a point of final destination outside the United States), product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods, when provided in order to facilitate the export of goods or services produced in the United States;

“(iii) the term ‘bank holding company’ shall include a bank which (I) is organized solely to do business with other banks and their officers, directors, or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public. No such other bank, owning stock in a bank described in this clause that invests in an export trading company, shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such other bank’s capital and surplus; and

“(iv) the term ‘extension of credit’ shall have the same meaning given such term in the fourth paragraph of section 23A of the Federal Reserve Act.”.

SEC. 205. On or before two years after the date of the enactment of this Act, the Federal Reserve Board shall report to the Committee on Banking, Housing, an Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives the Board’s recommendations with respect to the implementation of this section, the Board’s recommendations on any changes in United States law to facilitate the financing of United States exports, especially by small, medium-size, and minority business concerns, and the Board’s recommendations on the effects of ownership of United States banks by foreign banking organizations affiliated with trading companies doing business in the United States.

Report to congressional committees.  
12 USC 1843 note.

## GUARANTEES FOR EXPORT ACCOUNTS RECEIVABLE AND INVENTORY

SEC. 206. The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other public or private creditors to export trading companies as defined in section 4(c)(14)(F)(i) of the Bank Holding Company Act of 1956, or to other exporters, when such loans are secured by export accounts receivable or inventories of exportable goods, and when in the judgment of the Board of Directors—

12 USC 635a-4.

*Ante*, p. 1236.

(1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and

(2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size, and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

## BANKERS' ACCEPTANCES

SEC. 207. The seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372) is amended to read as follows:

12 USC 372 note.

"(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as 'institutions'), may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

"(i) which grow out of transactions involving the importation or exportation of goods;

"(ii) which grow out of transactions involving the domestic shipment of goods; or

"(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

"(B) Except as provided in subparagraph (C), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all

acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this paragraph.

“(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

“(F) With respect to an institution which issues an acceptance, the limitations contained in this paragraph shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

“(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

“(H) Any limitation or restriction in this paragraph based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.”.

### TITLE III—EXPORT TRADE CERTIFICATES OF REVIEW

#### EXPORT TRADE PROMOTION DUTIES OF SECRETARY OF COMMERCE

15 USC 4011.

SEC. 301. To promote and encourage export trade, the Secretary may issue certificates of review and advise and assist any person with respect to applying for certificates of review.

#### APPLICATION FOR ISSUANCE OF CERTIFICATE OF REVIEW

15 USC 4012.

SEC. 302. (a) To apply for a certificate of review, a person shall submit to the Secretary a written application which—

(1) specifies conduct limited to export trade, and

(2) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 310.

(b)(1) Within ten days after an application submitted under subsection (a) is received by the Secretary, the Secretary shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

Notice;  
publication in  
Federal  
Register.

(2) Not later than seven days after an application submitted under subsection (a) is received by the Secretary, the Secretary shall transmit to the Attorney General—

- (A) a copy of the application,
- (B) any information submitted to the Secretary in connection with the application, and
- (C) any other relevant information (as determined by the Secretary) in the possession of the Secretary, including information regarding the market share of the applicant in the line of commerce to which the conduct specified in the application relates.

#### ISSUANCE OF CERTIFICATE

SEC. 303. (a) A certificate of review shall be issued to any applicant that establishes that its specified export trade, export trade activities, and methods of operation will—

15 USC 4013.

- (1) result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
- (2) not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
- (3) not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and
- (4) not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

(b) Within ninety days after the Secretary receives an application for a certificate of review, the Secretary shall determine whether the applicant's export trade, export trade activities, and methods of operation meet the standards of subsection (a). If the Secretary, with the concurrence of the Attorney General, determines that such standards are met, the Secretary shall issue to the applicant a certificate of review. The certificate of review shall specify—

- (1) the export trade, export trade activities, and methods of operation to which the certificate applies,
- (2) the person to whom the certificate of review is issued, and
- (3) any terms and conditions the Secretary or the Attorney General deems necessary to assure compliance with the standards of subsection (a).

(c) If the applicant indicates a special need for prompt disposition, the Secretary and the Attorney General may expedite action on the application, except that no certificate of review may be issued within thirty days of publication of notice in the Federal Register under section 302(b)(1).

(d)(1) If the Secretary denies in whole or in part an application for a certificate, he shall notify the applicant of his determination and the reasons for it.

(2) An applicant may, within thirty days of receipt of notification that the application has been denied in whole or in part, request the Secretary to reconsider the determination. The Secretary, with the concurrence of the Attorney General, shall notify the applicant of the determination upon reconsideration within thirty days of receipt of the request.

(e) If the Secretary denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Secretary and the Attorney General shall return to the applicant, not later than thirty days after receipt of the request, the documents and all copies of the documents available to the Secretary and the Attorney General, except to the extent that the information contained in a document has been made available to the public.

(f) A certificate shall be void ab initio with respect to any export trade, export trade activities, or methods of operation for which a certificate was procured by fraud.

REPORTING REQUIREMENT; AMENDMENT OF CERTIFICATE; REVOCATION OF CERTIFICATE

15 USC 4014.

SEC. 304. (a)(1) Any applicant who receives a certificate of review—

(A) shall promptly report to the Secretary any change relevant to the matters specified in the certificate, and

(B) may submit to the Secretary an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Secretary.

(b)(1) If the Secretary or the Attorney General has reason to believe that the export trade, export trade activities, or methods of operation of a person holding a certificate of review no longer comply with the standards of section 303(a), the Secretary shall request such information from such person as the Secretary or the Attorney General deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under paragraph (2).

Notice.

(2) If the Secretary or the Attorney General determines that the export trade, export trade activities, or methods of operation of a person holding a certificate no longer comply with the standards of section 303(a), or that such person has failed to comply with a request made under paragraph (1), the Secretary shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Secretary shall revoke the certificate or modify it as the Secretary or the Attorney General deems necessary to cause the certificate to apply only to the export trade, export trade activities, or methods of operation which are in compliance with the standards of section 303(a).

Investigations.

(3) For purposes of carrying out this subsection, the Attorney General, and the Assistant Attorney General in charge of the antitrust division of the Department of Justice, may conduct investigations in the same manner as the Attorney General and the Assistant Attorney General conduct investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

28 USC 1927.

## JUDICIAL REVIEW; ADMISSIBILITY

SEC. 305. (a) If the Secretary grants or denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to section 304(b), any person aggrieved by such determination may, within 30 days of the determination, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous. 15 USC 4015.

(b) Except as provided in subsection (a), no action by the Secretary or the Attorney General pursuant to this title shall be subject to judicial review.

(c) If the Secretary denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefor shall be admissible in evidence, in any administrative or judicial proceeding, in support of any claim under the antitrust laws.

## PROTECTION CONFERRED BY CERTIFICATE OF REVIEW

SEC. 306. (a) Except as provided in subsection (b), no criminal or civil action may be brought under the antitrust laws against a person to whom a certificate of review is issued which is based on conduct which is specified in, and complies with the terms of, a certificate issued under section 303 which certificate was in effect when the conduct occurred. 15 USC 4016.

(b)(1) Any person who has been injured as a result of conduct engaged in under a certificate of review may bring a civil action for injunctive relief, actual damages, the loss of interest on actual damages, and the cost of suit (including a reasonable attorney's fee) for the failure to comply with the standards of section 303(a). Any action commenced under this title shall proceed as if it were an action commenced under section 4 or section 16 of the Clayton Act, except that the standards of section 303(a) of this title and the remedies provided in this paragraph shall be the exclusive standards and remedies applicable to such action.

15 USC 15, 26.

(2) Any action brought under paragraph (1) shall be filed within two years of the date the plaintiff has notice of the failure to comply with the standards of section 303(a) but in any event within four years after the cause of action accrues.

(3) In any action brought under paragraph (1), there shall be a presumption that conduct which is specified in and complies with a certificate of review does comply with the standards of section 303(a).

(4) In any action brought under paragraph (1), if the court finds that the conduct does comply with the standards of section 303(a), the court shall award to the person against whom the claim is brought the cost of suit attributable to defending against the claim (including a reasonable attorney's fee).

(5) The Attorney General may file suit pursuant to section 15 of the Clayton Act (15 U.S.C. 25) to enjoin conduct threatening clear and irreparable harm to the national interest.

## GUIDELINES

15 USC 4017.

**SEC. 307.** (a) To promote greater certainty regarding the application of the antitrust laws to export trade, the Secretary, with the concurrence of the Attorney General, may issue guidelines—

(1) describing specific types of conduct with respect to which the Secretary, with the concurrence of the Attorney General, has made or would make, determinations under sections 303 and 304, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under subsection (a).

## ANNUAL REPORTS

15 USC 4018.

**SEC. 308.** Every person to whom a certificate of review is issued shall submit to the Secretary an annual report, in such form and at such time as the Secretary may require, that updates where necessary the information required by section 302(a).

## DISCLOSURE OF INFORMATION

15 USC 4019.

**SEC. 309.** (a) Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(b)(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding, subject to appropriate protective orders,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Secretary deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or

(F) in accordance with any rule or regulation promulgated under section 310 permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (E).



## RULES AND REGULATIONS

**SEC. 310.** The Secretary, with the concurrence of the Attorney General, shall promulgate such rules and regulations as are necessary to carry out the purposes of this Act. 15 USC 4020.

## DEFINITIONS

**SEC. 311.** As used in this title— 15 USC 4021.

(1) the term “export trade” means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States or any territory thereof to any foreign nation,

(2) the term “service” means intangible economic output, including, but not limited to—

(A) business, repair, and amusement services,

(B) management, legal, engineering, architectural, and other professional services, and

(C) financial, insurance, transportation, informational and any other data-based services, and communication services,

(3) the term “export trade activities” means activities or agreements in the course of export trade,

(4) the term “methods of operation” means any method by which a person conducts or proposes to conduct export trade,

(5) the term “person” means an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between or among such persons,

(6) the term “antitrust laws” means the antitrust laws, as such term is defined in the first section of the Clayton Act (15 U.S.C. 12), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) (to the extent that section 5 prohibits unfair methods of competition), and any State antitrust or unfair competition law,

(7) the term “Secretary” means the Secretary of Commerce or his designee, and

(8) the term “Attorney General” means the Attorney General of the United States or his designee.

## EFFECTIVE DATES

**SEC. 312.** (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act. 15 USC 4011 note.

(b) Section 302 and section 303 shall take effect 90 days after the effective date of the rules and regulations first promulgated under section 310.

Foreign Trade  
Antitrust  
Improvements  
Act of 1982.

15 USC 1 note.

## TITLE IV—FOREIGN TRADE ANTITRUST IMPROVEMENTS

### SHORT TITLE

**SEC. 401.** This title may be cited as the “Foreign Trade Antitrust Improvements Act of 1982”.

### AMENDMENT TO SHERMAN ACT

**SEC. 402.** The Sherman Act (15 U.S.C. 1 et seq.) is amended by inserting after section 6 the following new section:

15 USC 6a.

“**SEC. 7.** This Act shall not apply to conduct involving trade or commerce (other than import trade or import commerce) with foreign nations unless—

“(1) such conduct has a direct, substantial, and reasonably foreseeable effect—

“(A) on trade or commerce which is not trade or commerce with foreign nations, or on import trade or import commerce with foreign nations; or

“(B) on export trade or export commerce with foreign nations, of a person engaged in such trade or commerce in the United States; and

“(2) such effect gives rise to a claim under the provisions of this Act, other than this section.

If this Act applies to such conduct only because of the operation of paragraph (1)(B), then this Act shall apply to such conduct only for injury to export business in the United States.”.

### AMENDMENT TO FEDERAL TRADE COMMISSION ACT

**SEC. 403.** Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end thereof the following new paragraph:

“(3) This subsection shall not apply to unfair methods of competition involving commerce with foreign nations (other than import commerce) unless—

“(A) such methods of competition have a direct, substantial, and reasonably foreseeable effect—

“(i) on commerce which is not commerce with foreign nations, or on import commerce with foreign nations; or

“(ii) on export commerce with foreign nations, of a person engaged in such commerce in the United States; and

“(B) such effect gives rise to a claim under the provisions of this subsection, other than this paragraph.  
If this subsection applies to such methods of competition only because of the operation of subparagraph (A)(ii), this subsection shall apply to such conduct only for injury to export business in the United States.”.

Approved October 8, 1982.

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LEGISLATIVE HISTORY—S. 734 (H.R. 1799, H.R. 6016):

HOUSE REPORTS: No. 97-924 (Comm. of Conference), No. 97-637, pt. 1 accompanying H.R. 1799 (Comm. on Foreign Affairs), pt. 2 (Comm. on the Judiciary) and No. 97-629 accompanying H.R. 6016 (Comm. on Banking, Finance and Urban Affairs).

SENATE REPORTS: No. 97-27 (Comm. on Banking, Housing and Urban Affairs) and No. 97-644 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Apr. 7, 8, considered and passed Senate.

Vol. 128 (1982): July 27, H.R. 1799 and H.R. 6016 considered and passed House; S. 734, amended, passed in lieu.

Oct. 1, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 18, No. 41 (1982): Oct. 8, Presidential statement.

Public Law 97-291  
97th Congress

An Act

Oct. 12, 1982  
[S. 2420]

To provide additional protections and assistance to victims and witnesses in Federal cases.

Victim and  
Witness  
Protection Act of  
1982.  
18 USC 1501  
note.  
18 USC 1512  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Victim and Witness Protection Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes and appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a model for legislation for State and local governments.

#### VICTIM IMPACT STATEMENT

SEC. 3. Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

18 USC app.

“(2) REPORT.—The presentence report shall contain—

“(A) any prior criminal record of the defendant;

“(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant’s behavior;

“(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and

“(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.”.

#### PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

##### “§ 1512. Tampering with a witness, victim, or an informant

18 USC 1512.

“(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

“(1) influence the testimony of any person in an official proceeding;

“(2) cause or induce any person to—

“(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

“(B) alter, destroy, mutilate, or conceal an object with intent to impair the object’s integrity or availability for use in an official proceeding;

“(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

“(D) be absent from an official proceeding to which such person has been summoned by legal process; or

“(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

Penalty.

“(b) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

“(1) attending or testifying in an official proceeding;

“(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

“(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

“(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

Penalty.

or attempts to do so, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

“(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

“(d) For the purposes of this section—

“(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

“(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

“(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

“(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

“(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

“(f) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1513.

**“§ 1513. Retaliating against a witness, victim, or an informant**

“(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

“(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

“(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

Penalty.

or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

“(b) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1514.

**“§ 1514. Civil action to restrain harassment of a victim or witness**

“(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining

order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

“(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party’s attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

Temporary  
restraining  
order.

“(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

“(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

Expiration.

“(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

Protective order.

“(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

“(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

“(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

“(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

“(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

“(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent

harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section.

Definitions.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such person; and

"(B) serves no legitimate purpose; and

"(2) the term 'course of conduct' means a series of acts over a period of time, however short, indicating a continuity of purpose.

18 USC 1515.

**"§ 1515. Definitions for certain provisions**

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial services officer under this title; and

"(5) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or



“(E) any other injury to the body, no matter how temporary.”.

(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

(1) so that the item relating to section 1503 reads as follows:

“1503. Influencing or injuring officer or juror generally.”; and

(2) by adding at the end the following:

“1512. Tampering with a witness, victim, or an informant.

“1513. Retaliating against a witness, victim, or an informant.

“1514. Civil action to restrain harassment of a victim or witness.

“1515. Definitions for certain provisions.”.

(c) Section 1503 of title 18 of the United States Code is amended—

(1) in the heading of such section, by striking out “, juror or witness” and inserting in lieu thereof “or juror”;

(2) by striking out “witness” the first place it appears after “impede any” and all that follows through “or any grand” and inserting “grand” in lieu thereof; and

(3) by striking out “injures any party or witness” and all that follows through “matter pending therein, or”.

(d) section 1505 of title 18 of the United States Code is amended by—

(1) striking out paragraphs (1) and (2);

(2) striking out “such” the first place it appears in the fourth paragraph and inserting in lieu thereof “any pending”;

(3) striking out “such” the second place it appears in the fourth paragraph and inserting in lieu thereof “any”; and

(4) striking out “such inquiry” in the fourth paragraph and inserting in lieu thereof “any inquiry”.

(e) Section 1510(a) of title 18 of the United States Code is amended—

(1) by striking out the comma immediately following “bribery” and all that follows through “thereof”;

(2) by striking out the semicolon immediately following “investigator” the first place it appears and all that follows through “Shall be fined” and inserting “shall be fined” in lieu thereof.

#### RESTITUTION

SEC. 5. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

#### “§ 3579. Order of restitution

18 USC 3579.

“(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.

“(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

“(b) The order may require that such defendant—

Property.

“(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

“(A) return the property to the owner of the property or someone designated by the owner; or

“(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

“(i) the value of the property on the date of the damage, loss, or destruction, or

“(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

Bodily injury.

“(2) in the case of an offense resulting in bodily injury to a victim—

“(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

“(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

“(C) reimburse the victim for income lost by such victim as a result of such offense;

Death.

“(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and

“(4) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.

Victim's estate.

“(c) If the Court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

“(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.

Restitution.

“(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.

“(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

“(A) any Federal civil proceeding; and

“(B) any State civil proceeding, to the extent provided by the law of that State.

Time period.

“(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

“(2) The end of such period or the last such installment shall not be later than—

“(A) the end of the period of probation, if probation is ordered;

“(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

“(C) five years after the date of sentencing in any other case.

“(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

“(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special circumstances that may have a bearing on the defendant’s ability to pay.

Probation or  
parole.

“(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

Enforcement.

**“§ 3580. Procedure for issuing order of restitution**

18 USC 3580.

“(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other factors as the court deems appropriate.

“(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

“(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

Information  
disclosure.

“(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant’s dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

“(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.”.

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

“3579. Nature of order of restitution.

“3580. Procedure for issuing order of restitution.”.

**FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM**18 USC 1512  
note.

**SEC. 6. (a)** Within two hundred and seventy days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) **SERVICES TO VICTIMS OF CRIME.**—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) **NOTIFICATION OF AVAILABILITY OF PROTECTION.**—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) **SCHEDULING CHANGES.**—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

(4) **PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.**—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

(A) the arrest of an accused;

(B) the initial appearance of an accused before a judicial officer;

(C) the release of the accused pending judicial proceedings; and

(D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) **CONSULTATION WITH VICTIM.**—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

(A) dismissal;

(B) release of the accused pending judicial proceedings;

(C) plea negotiations; and

## (D) pretrial diversion program.

(6) **SEPARATE WAITING AREA.**—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) **PROPERTY RETURN.**—Law enforcement agencies and prosecutor should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) **NOTIFICATION TO EMPLOYER.**—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) **TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.**—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) **GENERAL VICTIM ASSISTANCE.**—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States. Restriction.

(c) The Attorney General shall assure that all Federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

**PROFIT BY A CRIMINAL FROM SALE OF HIS STORY**

**SEC. 7.** Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Report to  
Congress.  
18 USC 3579  
note.

**BAIL**

**SEC. 8.** Section 3146(a) of chapter 207 of title 18, United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under section 1503, 1512, or 1513 of this title,"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".

## EFFECTIVE DATE

18 USC 1512  
note.

SEC. 9. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by section 2 of this Act shall apply to presentence reports ordered to be made on or after March 1, 1983.

(2) The amendments made by section 5 of this Act shall apply with respect to offenses occurring on or after January 1, 1983.

Approved October 12, 1982.

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LEGISLATIVE HISTORY—S. 2420 (H.R. 7191):

SENATE REPORT No. 97-532 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed Senate.

Sept. 30, H.R. 7191 considered and passed House; S. 2420, amended, passed in lieu.

Oct. 1, Senate concurred in House amendments with an amendment; House concurred in Senate amendment.

Public Law 97-292  
97th Congress

## An Act

To amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).

Oct. 12, 1982  
[H.R. 6976]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the “Missing Children Act”.

Missing  
Children Act.  
28 USC 1 note.

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

- (1) by striking out “and” at the end of paragraph (1);
- (2) by redesignating paragraph (2) as paragraph (4);
- (3) by inserting after paragraph (1) the following new paragraphs:

“(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

Deceased  
individuals.

“(3) acquire, collect, classify, and preserve any information which would assist in the location of any missing person (including an unemancipated person as defined by the laws of the place of residence of such person) and provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (and the Attorney General may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin);” and

(4) by striking out “exchange these records” in paragraph (4) (as so redesignated) and inserting in lieu thereof “exchange such records and information”.

(b) Section 534(b) of title 28, United States Code, is amended—

- (1) by inserting “and information” after “records”; and
- (2) by striking out “(a)(2)” and inserting “(a)(4)” in lieu thereof.

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

**“§ 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials”.**

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

“534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.”.

Approved October 12, 1982.

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**LEGISLATIVE HISTORY—H.R. 6976 (S. 1701):**

HOUSE REPORTS: No. 97-820 (Comm. on the Judiciary) and No. 97-911 (Comm. of Conference).

SENATE REPORT No. 97-583 accompanying S. 1701 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 20, considered and passed House.

Sept. 23, S. 1701 considered and passed Senate.

Sept. 28, H.R. 6976 considered and passed Senate, amended.

Sept. 30, House agreed to conference report.

Oct. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):

Oct. 12, Presidential statement.



Public Law 97-293  
97th Congress

An Act

To authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.

Oct. 12, 1982  
[S. 1409]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Buffalo Bill  
Dam and  
Reservoir,  
Shoshone  
project,  
Pick-Sloan  
Missouri Basin  
program, Wyo.

*Post*, p. 1263.

TITLE I

CONSTRUCTION OF DAM MODIFICATIONS

SEC. 101. The Secretary of the Interior, acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservoir shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservoir by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided*, That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

CONSERVATION AND FISH AND WILDLIFE

SEC. 102. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

16 USC 4061-12.

COORDINATION WITH OTHER LAWS

SEC. 103. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by sec-

43 USC 485k.  
43 USC 390b  
note.

tion 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 107 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

#### TRANSMISSION INTERCONNECTIONS

SEC. 104. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this title to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this title shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

#### INTEREST

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 106. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of \$106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided*, That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 107 of this title.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this title, together with such sums as may be required for operation and maintenance of the works authorized by section 104(a).

## CONTRACTS AUTHORITY

SEC. 107. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

Reclamation  
Reform Act  
of 1982.

## TITLE II

## SHORT TITLE

SEC. 201. This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as "Federal reclamation law". This title may be referred to as the "Reclamation Reform Act of 1982".

43 USC 390aa.

43 USC 371  
note.

## DEFINITIONS

SEC. 202. As used in this title:

43 USC 390bb.

(1) The term "contract" means any repayment or water service contract between the United States and a district providing for the payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal reclamation law.

(2) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(3)(A) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment of this Act on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment of this Act: *Provided*, That operation, maintenance, and replacement charges required under Federal reclamation law, including this title, shall be collected in addition to the full cost charge.

(B) The interest rate used for expenditures made on or before the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made, but shall not be less than 7½ per centum per annum.

(C) The interest rate used for expenditures made after the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(i) the rate as of the beginning of the fiscal year in which expenditures are made on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due

nor callable for redemption for fifteen years from the date of issuance; and

(ii) the weighted average yield on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(4) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(5) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(6) The term "landholding" means total irrigable acreage of one or more tracts of land situated in one or more districts owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

(7) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five natural persons.

(8) The term "project" means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(9) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five natural persons or less.

(10) The term "recordable contract" means a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the ownership limitations of Federal reclamation law including this title.

(11) The term "Secretary" means the Secretary of the Interior.

#### NEW OR AMENDED CONTRACTS

43 USC 390cc.

SEC. 203. (a) The provisions of this title shall be applicable to any district which—

(1) enters into a contract with the Secretary subsequent to the date of enactment of this Act;

(2) enters into any amendment of its contract with the Secretary subsequent to the date of enactment of this Act which enables the district to receive supplemental or additional benefits; or

(3) which amends its contract for the purpose of conforming to the provisions of this title.

(b) Any district which has an existing contract with the Secretary as of the date of enactment of this Act which does not enter into an amendment of such contract as specified in subsection (a) shall be subject to Federal reclamation law in effect immediately prior to the date of enactment of this Act, as that law is amended or supplemented by sections 209 through 230 of this title. Within a district that does not enter into an amendment of its contract with the Secretary within four and one-half years of the date of enactment of this Act, irrigation water may be delivered to lands leased in excess of a landholding of one hundred and sixty acres only if full cost, as defined in section 202(3)(A) of this title, is paid for such water as is assignable to those lands leased in excess of such landholding of one hundred and sixty acres: *Provided*, That the interest rate used in computing full cost under this subsection shall be the same as provided in section 205(a)(3).

(c) In the absence of an amendment to a contract, as specified in subsection (a), a qualified recipient or limited recipient may elect to be subject to the provisions of this title by executing an irrevocable election in a form approved by the Secretary to comply with this title. The district shall thereupon deliver irrigation water to and collect from such recipient, for the credit of the United States, the additional charges required by this title and assignable to the recipient making the election.

(d) Amendments to contracts which are not required by the provisions of this title shall not be made without the consent of the non-Federal party.

#### LIMITATION ON OWNERSHIP

SEC. 204. Except as provided in section 209 of this title, irrigation water may not be delivered to— 43 USC 390dd.

(1) a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof; or

(2) a limited recipient for the use in the irrigation of lands owned by such limited recipient in excess of six hundred and forty acres of class I lands or the equivalent thereof; whether situated in one or more districts.

#### PRICING

SEC. 205. (a) Notwithstanding any other provision of law, any contract with a district entered into by the Secretary as specified in section 203, shall provide for the delivery of irrigation water at full cost as defined in section 202(3) to: 43 USC 390ee.

(1) a landholding in excess of nine hundred and sixty acres of class I lands or the equivalent thereof for a qualified recipient,

(2) a landholding in excess of three hundred and twenty acres of class I land or the equivalent thereof for a limited recipient receiving irrigation water on or before October 1, 1981; and

(3) the entire landholding of a limited recipient not receiving irrigation water on or before October 1, 1981: *Provided*, That the interest rate used in computing full cost under this paragraph shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(A) the computed average interest rate payable by the Treasury upon its outstanding marketable public obliga-

tions which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(B) the weighted average of market yields on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made, or the date of enactment of this Act for expenditures made before such date of enactment.

(b) Any contract with a district entered into by the Secretary as specified in section 203, shall provide for the delivery of irrigation water to lands not in excess of the landholdings described in subsection (a) upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment. However, the portion of any price established under this subsection which relates to operation and maintenance charges shall be established pursuant to section 208 of this title.

(c) Notwithstanding any extension of time of any recordable contract as provided in section 209(e) of this title, lands under recordable contract shall be eligible to receive irrigation water at less than full cost for a period not to exceed ten years from the date such recordable contract was executed by the Secretary in the case of contracts existing prior to the date of enactment of this Act, or five years from the date such recordable contract was executed by the Secretary in the case of contracts entered into subsequent to the date of enactment, or the time specified in section 218 for lands described in that section: *Provided*, That in no case shall the right to receive water at less than full cost under this subsection terminate sooner than eighteen months after the date on which the Secretary again commences the processing or the approval of the disposition of such lands.

#### CERTIFICATION

43 USC 390ff.

SEC. 206. As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 203, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title including a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

#### EQUIVALENCY

43 USC 390gg.

SEC. 207. Upon the request of any district, the ownership and pricing limitations imposed by this title shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

## OPERATION AND MAINTENANCE CHARGES

SEC. 208. (a) The price of irrigation water delivered by the Secretary pursuant to a contract or an amendment to a contract with a district, as specified in section 203, shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States. 43 USC 390hh.

(b) Whenever a district enters into a contract or requests that its contract be amended as specified in section 203, and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of irrigation water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

(c) This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

## DISPOSITION OF EXCESS LANDS

SEC. 209. (a) Irrigation water made available in the operation of reclamation project facilities may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, unless and until the owners thereof shall have executed a recordable contract with the Secretary, in accordance with the terms and conditions required by Federal reclamation law, requiring the disposal of their interest in such excess lands within a reasonable time to be established by the Secretary. In the case of recordable contracts entered into prior to the date of enactment of this Act, such reasonable time shall not exceed ten years after the recordable contract is executed by the Secretary. In the case of recordable contracts entered into after the date of enactment of this Act, except as provided in section 218, such reasonable time shall not exceed five years after the recordable contract is executed by the Secretary. 43 USC 390ii.

(b) Lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, which, on the date of enactment of this Act, are, or are capable of, receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only—

(1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or

(2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(c) Recordable contracts existing on the date of enactment of this Act shall be amended at the request of the landowner to conform with the ownership limitations contained in this title: *Provided*, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) Any recordable contract covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the recordable contract. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as the Secretary may establish:

*Provided*, That the Secretary shall recover for the owner the fair market value of the land unrelated to irrigation water deliveries plus the fair market value of improvements thereon.

(e) In the event that the owner of any lands in excess of the ownership limitations of Federal reclamation law has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.

(f) Excess lands which have been or may be disposed of in compliance with Federal reclamation law, including this title, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with Federal reclamation law, including this title, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e).

#### WATER CONSERVATION

43 USC 390jj.

SEC. 210. (a) The Secretary shall, pursuant to his authorities under otherwise existing Federal reclamation law, encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.

(b) Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives.

(c) The Secretary is authorized and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.



## RESIDENCY NOT REQUIRED

SEC. 211. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them. 43 USC 390kk.

## CORPS OF ENGINEERS PROJECTS

SEC. 212. (a) Notwithstanding any other provision of law, neither the ownership or pricing limitation provisions nor the other provisions of Federal reclamation law, including this title, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless— 43 USC 390ll.

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

## REPAYMENT OF CONSTRUCTION CHARGES

SEC. 213. (a) The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on the date of enactment of this Act), by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts existing on the date of enactment of this Act. 43 USC 390mm.

(b)(1) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the ownership or full cost pricing limitation of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located. Certificate.

(2) Any certificate issued by the Secretary prior to the date of enactment of this Act acknowledging that the landholding is free of the acreage limitation of Federal reclamation law is hereby ratified. Ratification.

(c) Nothing in this title shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district.

## TRUSTS

43 USC 390nn.

**SEC. 214.** The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title.

## TEMPORARY SUPPLIES OF WATER

43 USC 390oo.

**SEC. 215. (a)** Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which receive only a temporary, not to exceed one year, supply of water made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration.

Waiver.

**(b)** The Secretary shall have the authority to waive payments for a supply of water described in subsection (a).

## INVOLUNTARY FORECLOSURE

43 USC 390pp.

**SEC. 216.** Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise: *Provided*, That such lands were eligible to receive irrigation water prior to such transfer of title or the mortgaged lands became ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: *Provided further*, That if, after acquisition, such lands are not qualified under Federal reclamation law, including this title, they shall be furnished temporarily with an irrigation water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of irrigation water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: *Provided further*, That the provisions of section 205 of this title shall be applicable separately to each acquisition under this section if the lands are otherwise subject to the provisions of section 205.

## ISOLATED TRACTS

43 USC 390qq.

**SEC. 217.** Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed such ownership limitations.

## CENTRAL ARIZONA PROJECT

SEC. 218. Lands receiving irrigation water pursuant to a contract with the Secretary as authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521 et seq.) which are placed under recordable contract shall be eligible to receive irrigation water upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, for a period of time not to exceed ten years from the date such lands are capable of being served with irrigation water, as determined by the Secretary. 43 USC 390rr.

## RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 219. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as an individual under the provisions of this title regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if— 43 USC 390ss.  
26 USC 501.

- (1) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;
- (2) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and
- (3) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

## CONTRACT REQUIRED

SEC. 220. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such irrigation water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such irrigation water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of Federal reclamation law. 43 USC 390tt.  
43 USC 485k.

## WAIVER OF SOVEREIGN IMMUNITY

SEC. 221. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant 43 USC 390uu.

to this section may be brought in any United States district court in the State in which the land involved is situated.

#### EXCESS CROP RESTRICTIONS

Report to  
Congress.  
43 USC 390vv.

SEC. 222. (a) Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation water. The report shall include—

- (1) data delineating the production of surplus crops on lands served by irrigation water;
- (2) the percentage of participation of farms served by irrigation water in set-aside programs, by acreage, crop, and State;
- (3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement; and
- (4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

(b) In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this Act, any restriction prohibiting the delivery of irrigation water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

#### SMALL RECLAMATION PROJECTS ACT

SEC. 223. Section 5(c)(2) of the Act of August 6, 1956 (43 U.S.C. 422e), is amended by striking out “by any one owner in excess of one hundred and sixty irrigable acres;” and inserting in lieu thereof “by a qualified recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres;”.

#### ADMINISTRATIVE PROVISIONS

43 USC 390ww.

SEC. 224. (a) The provisions of Federal reclamation law shall remain in full force and effect, except to the extent such law is amended by, or is inconsistent with, this title.

(b) Nothing in this title shall repeal or amend any existing statutory exemptions from the ownership or pricing limitations of Federal reclamation law.

Regulations.

(c) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this title and other provisions of Federal reclamation law.

(d) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase “for a period not to exceed twenty-five years” following the term “project water”.

(e) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or

devise, may be sold at its fair market value without regard to any other provision of this title or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e): *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(f) The first proviso in the third paragraph of section 1 of the Act of April 4, 1910 (36 Stat. 269, 270), as amended by the Act of August 7, 1946 (60 Stat. 866, 867), is hereby repealed.

25 USC 383.

#### VALIDATION

SEC. 225. The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States.

43 USC 390xx.

#### PUBLIC PARTICIPATION

SEC. 226. Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding at the end the following new subsection:

"(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year or less) the Secretary shall—

"(1) publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

Notice.

"(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received."

#### LEASING REQUIREMENTS

SEC. 227. Notwithstanding any other provision of Federal reclamation law, including this title, lands which receive irrigation water may be leased only if the lease instrument is—

43 USC 390yy.

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: *Provided, however*, That leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years.

## REPORTING

Recordkeeping.  
43 USC 390zz.

**SEC. 228.** Any contracting entity subject to the ownership or pricing limitations of Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this title and Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

## COMMISSIONER OF RECLAMATION

43 USC 373a.

**SEC. 229.** The Act of May 26, 1926 (44 Stat. 657), is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

## SEVERABILITY

43 USC 390zz-1.

**SEC. 230.** If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

## TITLE III

## CONGRESSIONAL FINDINGS

Southern  
Arizona  
Water Rights  
Settlement  
Act of 1982.

Papago Tribe,  
water rights  
claims.

**SEC. 301.** The Congress finds that—

(1) water rights claims of the Papago Tribe with respect to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Papago Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attempted to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Papago Indian Tribe, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Papago Indians respecting certain portions of the Papago Reservation; and

(5) the settlement contained in this title will—

(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

(B) insure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Papago Tribe.

#### DEFINITIONS

**SEC. 302.** For purposes of this title—

(1) The term “acre-foot” means the amount of water necessary to cover one acre of land to a depth of one foot.

(2) The term “Central Arizona Project” means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(3) The term “Papago Tribe” means the Papago Tribe of Arizona organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(4) The term “Secretary” means the Secretary of the Interior.

(5) The term “subjugate” means to prepare land for the growing of crops through irrigation.

(6) The term “Tucson Active Management Area” means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(7) The term “December 11, 1980, agreement” means the Central Arizona Project water delivery contract between the United States and the Papago Tribe.

(8) The term “replacement costs” means the reasonable costs of acquiring and delivering water from sources within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area. Such costs shall include costs of necessary construction amortized in accordance with standard Bureau of Reclamation Procedures.

(9) The term “value” means the value attributed to the water based on the Tribe’s anticipated or actual use of the water, or its fair market value, whichever is greater.

#### WATER DELIVERIES TO TRIBE FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH TRIBE

**SEC. 303.** (a) As soon as is possible but not later than ten years after the enactment of this title, if the Papago Tribe has agreed to the conditions set forth in section 306, the Secretary, acting through the Bureau of Reclamation, shall—

(1) in the case of the San Xavier Reservation—

(A) deliver annually from the main project works of the Central Arizona Project twenty-seven thousand acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) improve and extend the existing irrigation system on the San Xavier Reservation and design and construct within the reservation such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(2) in the case of the Schuk Toak District of the Sells Papago Reservation—

(A) deliver annually from the main project works of the Central Arizona Project ten thousand eight hundred acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) design and construct an irrigation system in the Eastern Schuk Toak District of the Sells Papago Reservation, including such canals, laterals, farm ditches, and irrigation works, as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

Water management plan, establishment.

(3) establish a water management plan for the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as any management plan developed under Arizona law.

Appropriation authorization.

(4) There are authorized to be appropriated up to \$3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved for those features of the irrigation system described in paragraph (1)(B) or (2)(B) of section 303(a) which are not authorized to be constructed under any other provision of law.

Study.

(b)(1) In order to encourage the Papago Tribe to develop sources of water on the Sells Papago Reservation, the Secretary shall, if so requested by the tribe, carry out a study to determine the availability and suitability of water resources within the Sells Papago Reservation but outside the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area.

Study.

(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

(A) the availability of energy and the energy requirements which result from the enactment of the provisions of this title, and

(B) the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

(c) The Papago Tribe shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation subject to the limitations of section 306(a).

(d) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Papago Tribe under the December 11, 1980, agreement.

(e) Nothing contained in sections 303(c) and 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies, or does not apply, to ground water.

#### DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

SEC. 304. (a) The water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Schuk Toak District of the Sells Papago Reservation as provided



in section 303(a), shall be delivered in such amounts, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, except as otherwise provided under this section.

(b) Where the Secretary, pursuant to the terms and conditions of the agreement referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(2)(A), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof:

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area in the State of Arizona:

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (2)(A) of section 303(a), he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where the delivery system is completed.

(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

(e)(1) To meet the obligation referred to in paragraphs (1)(A) and (2)(A) of section 303(a), the Secretary shall, acting through the Bureau of Reclamation, as part of the main project works of the Central Arizona Project—

(A) design, construct and, without cost to the Papago Tribe, operate, maintain, and replace such facilities as are appropriate including any aqueduct and appurtenant pumping facilities, powerplants, and electric power transmission facilities which may be necessary for such purposes; and

(B) deliver the water to the southern boundary of the San Xavier Reservation, and to the boundary of the Schuk Toak District of the Sells Papago Reservation, at points agreed to by the Secretary and the tribe which are suitable for delivery to the reservation distribution systems.

Appropriation  
authorization.

(2) There is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A) and (B) of paragraph (1). Sums allocable to the construction of such facilities shall be reimbursable as provided by the Act of July 1, 1932 (Public Law 72-240; 25 U.S.C. 386(a)), as long as such water is used for irrigation of Indian lands.

25 USC 386a.

(f) To facilitate the delivery of water to the San Xavier and the Schuk Toak District of the Sells Papago Reservation under this title, the Secretary is authorized—

(1) to enter into contracts or agreements for the exchange of water, or for the use of aqueducts, canals, conduits, and other facilities for water delivery, including pumping plants, with the State of Arizona or any of its subdivisions, with any irrigation district or project, or with any authority, corporation, partnership, individual, or other legal entity; and

(2) to use facilities constructed in whole or in part with Federal funds.

#### RECLAIMED WATER; ALTERNATIVE WATER SUPPLIES

SEC. 305. (a) As soon as possible, but not later than ten years after the date of enactment of this title, the Secretary shall acquire reclaimed water in accordance with the agreement described in section 307(a)(1) and deliver annually twenty-three thousand acre-feet of water suitable for agricultural use to the San Xavier Reservation and deliver annually five thousand two hundred acre-feet of water suitable for agricultural use to the Schuk Toak District of the Sells Papago Reservation.

(b)(1) The obligation of the Secretary referred to in subsection (a) to deliver water suitable for agricultural use may be fulfilled by voluntary exchange of that reclaimed water for any other water suitable for agricultural use or by other means. To make available and deliver such water, the Secretary acting through the Bureau of Reclamation shall design, construct, operate, maintain, and replace such facilities as are appropriate. The costs of design, construction, operation, maintenance, and replacement of on-reservation systems for the distribution of the water referred to in subsection (a) are the responsibility of the Papago Tribe.

(2) The Secretary shall not construct a separate delivery system to deliver reclaimed water referred to in subsection (a) to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation.

(3) To facilitate the delivery of water under this title, the Secretary shall, to the extent possible, utilize unused capacity of the main project works of the Central Arizona Project without reallocation of costs.

(c) The Secretary may, as an alternative to, and in satisfaction of the obligation to deliver the quantities of water to be delivered under subsection (a), acquire and deliver pursuant to agreements authorized in section 307(b), an equivalent quantity of water from the following sources or any combination thereof—

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(d) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to—

Payment of  
damages.

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where a delivery system is completed.

(e) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

#### LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Papago Tribe agrees to—

(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than ten thousand acre-feet per year;

(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981; and

(3) comply with the management plan established by the Secretary under section 303(a)(3).

Nothing contained in paragraph (1) shall restrict the tribe from drilling wells and withdrawing ground water therefrom on the San Xavier Reservation if such wells have a capacity of less than thirty-five gallons per minute and are used only for domestic and livestock purposes. Nothing contained in paragraph (2) shall restrict the tribe from drilling wells and withdrawing ground water therefrom in the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area if such wells have a capacity of less than thirty-five gallons per minute and which are used only for domestic and livestock purposes.

(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (1)(B) and (2)(B) of section 303(a) only if the Papago Tribe agrees to—

(1) subjugate, at no cost to the United States, the land for which those distribution systems are to be planned, designed, and constructed by the Secretary; and

(2) assume responsibility, through the tribe or its members or an entity designated by the tribe, as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and replacement of those systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

(c)(1) The Papago Tribe shall have the right to devote all water supplies under this title, whether delivered by the Secretary or pumped by the tribe, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the Papago Reservation so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within such area.

(2) The Papago Tribe may sell, exchange, or temporarily dispose of water, but the tribe may not permanently alienate any water right. In the event the tribe sells, exchanges, or temporarily disposes of water, such sale, exchange, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Papago Tribal Council and approved and executed by the Secretary as agent and trustee for the tribe. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The net proceeds from any sale, exchange, or disposition of water by the Papago Tribe shall be used for social or economic programs or for tribal administrative purposes which benefit the Papago Tribe.

(d) Nothing in section 306(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off of any reservation to which reserved water rights attach.

**OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER;  
DISMISSAL AND WAIVER OR CLAIMS OF PAPAGO TRIBE AND ALLOTTEES**

**SEC. 307.** (a) The Secretary shall be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 305 only if—

(1) within one year of the date of enactment of this title—

(A) the city of Tucson and the Secretary agree that the city will make immediately available, without payment to the city, such quantity of reclaimed water treated to secondary standards as is adequate, after evaporative losses, to deliver annually, as contemplated in section 305(a), twenty-eight thousand two hundred acre-feet of water for the Secretary to dispose of as he sees fit; such agreement may provide terms and conditions under which the Secretary may relinquish to the city of Tucson such quantities of water as are not needed to satisfy the Secretary's obligations under this title;

(B) the Secretary and the city of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company agree that funds will be contributed, in accordance with the paragraphs (1)(B) and (2) of subsection (b) of section 313, to the Cooperative Fund established under subsection (a) of such section.

(C) the Papago Tribe agrees to file with the United States District Court for the District of Arizona a stipulation for voluntary dismissal with prejudice, in which the Attorney General is authorized and directed to join on behalf of the United States, and the allottee class representatives' petition for dismissal of the class action with prejudice in the United States, the Papago Indian Tribe, and others against the city of Tucson, and others, civil numbered 75-39 TUC (JAW); and

(D) the Papago Tribe executes a waiver and release in a manner satisfactory to the Secretary of—

Waiver and  
release.

(i) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of the execution by the tribe of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(ii) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of execution of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation,

or municipal corporation, under the laws of the United States or the State of Arizona; and

(2) the suit referred to in paragraph (1)(C) is finally dismissed;

(b) After the conditions referred to in subsection (a) have been met the Secretary shall be authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the contract required in subsection (a)(1)(A) it is possible to deliver the quantities of water required in section 305(a).

(c) Nothing in this section shall be construed as a waiver or release by the Papago Tribe of any claim where such claim arises under this title.

Effective  
date.

(d) The waiver and release referred to in this section shall not take effect until such time as the trust fund referred to in section 309 is in existence, the conditions set forth in subsection (a) have been met, and the full amount authorized to be appropriated to the trust fund under section 309 has been appropriated by the Congress.

(e) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) of all individual members of the Papago Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District of the Sells Reservation located within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, as of the date the waiver and release referred to in this section take effect. Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title.

**STUDY OF LANDS WITHIN THE GILA BEND RESERVATION; EXCHANGE OF LANDS AND ADDITION OF LANDS TO THE RESERVATION; AUTHORIZED APPROPRIATIONS**

Studies and  
analysis.

SEC. 308. (a) The Secretary is hereby authorized and directed to carry out such studies and analysis as he deems necessary to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. Such study and analysis shall be completed within one year after the date of the enactment of this title.

(b) If, on the basis of the study and analysis conducted under subsection (a), the Secretary determines that lands have been rendered unsuitable for agriculture for the reasons set forth in subsection (a), and if the Papago Tribe consents, the Secretary is authorized to exchange such lands for an equivalent acreage of land under his jurisdiction which are within the Federal public domain and which, but for their suitability for agriculture, are of like quality.

(c) The lands exchanged under this section shall be held in trust for the Papago Tribe and shall be part of the Gila Bend Reservation for all purposes. Such lands shall be deemed to have been reserved as of the date of the reservation of the lands for which they are exchanged.

Management.

(d) Lands exchanged under this section which, prior to the exchange, were part of the Gila Bend Reservation, shall be managed

by the Secretary of the Interior through the Bureau of Land Management.

(e) The Secretary may require the Papago Tribe to reimburse the United States for moneys paid, if any, by the Federal Government for flood easements on lands which the Secretary replaces by exchange under subsection (b).

Reimburse-  
ment.

#### ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

SEC. 309. (a) Pursuant to appropriations the Secretary of the Treasury shall pay to the authorized governing body of the Papago Tribe the sum of \$15,000,000 to be held in trust for the benefit of such Tribe and invested in interest bearing deposits and securities including deposits and securities of the United States.

(b) The authorized governing body of the Papago Tribe, as trustee for such Tribe, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Papago Tribe for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Papago Reservation which are not the obligation of the United States under this or any other Act of Congress.

#### APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 310. The functions of the Bureau of Reclamation under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

#### EXTENSION OF STATUTE OF LIMITATIONS

SEC. 311. Except as otherwise provided in section 107 of this title, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Papago Indian Tribe or any member of such tribe brought by the United States for, or on behalf of, such tribe or member of such tribe, or by such tribe on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

#### ARID LAND RENEWABLE RESOURCE ASSISTANCE

SEC. 312. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Papago Tribe in providing such assistance. Such entity shall make available to the Papago Tribe—

(1) price guarantees, loan guarantees, or purchase agreements,

(2) loans, and

(3) joint venture projects,

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Papago Tribe.

## COOPERATIVE FUND

Establishment.

**SEC. 313. (a)** There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

(A) operation, maintenance, and repair costs related to the delivery of water under sections 303, 304, 305;

(B) any costs of acquisition and delivery of water from alternative sources under section 304(b) and 305(c); and

(C) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

(b)(1) The Cooperative Fund shall consist of—

(A) amounts appropriated to the Fund under paragraph (3) of this subsection;

(B) \$5,250,000 to be contributed as follows:

(i) \$2,750,000 (adjusted as provided in paragraph (2)) contributed by the State of Arizona;

(ii) \$1,500,000 (adjusted as provided in paragraph (2)) contributed by the City of Tucson; and

(iii) \$1,000,000 (adjusted as provided in paragraph (2)) contributed jointly by the Anamax Mining Company, the Cyprus-Pine Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

(2) The amounts referred to in subparagraph (B) of paragraph (1) shall be contributed before the expiration of the three-year period beginning on the date of the enactment of this title. To the extent that any portion of such amounts is contributed after the one-year period beginning on the date of the enactment of this title, the contribution shall include an adjustment representing the additional interest which would have been earned by the Cooperative Fund if that portion had been contributed before the end of the one-year period.

Appropriation authorization.

(3) There are hereby authorized to be appropriated to the Cooperative Fund the following:

(A) \$5,250,000; and

(B) Such sums up to \$16,000,000 (adjusted as provided in paragraph 2) which the Secretary determines, by notice to the Congress, are necessary to meet his obligations under this title; and

(C) Such additional sums as may be provided by Act of Congress.

(c)(1) Only interest accruing to the Cooperative Fund may be expended and no such interest may be expended prior to the earlier of—

(A) 10 years after the date of the enactment of this title; or

(B) the date of completion of the main project works of the Central Arizona Project.

(2) Interest accruing to the Fund during the twelve-month period before the date determined under paragraph (1) and interest accruing to Fund thereafter shall, without further appropriation, be available for expenditure after the date determined under paragraph (1).



(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

Trustee.  
Investments.

(e) If, before the date three years after the date of the enactment of this title—

Termination.

(1) the waiver and release referred to in section 307 does not take effect by reason of section 307(d); or

(2) the suit referred to in section 307(a)(1)(C) is not finally dismissed

the Cooperative Fund under this section shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of accrued interest) to the respective contributors. Upon such termination, the share contributed by the United States under subsection (b)(3) shall be deposited in the General Fund of the Treasury.

(f) Payments for damages arising under 304(c) and 305(d) shall not exceed in any given year the amounts available for expenditure in any given year from the Cooperative Fund established under this section.

#### COMPLIANCE WITH BUDGET ACT

SEC. 314. No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

Effective  
date.

#### SHORT TITLE

SEC. 315. This title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982".

Approved October 12, 1982.

#### LEGISLATIVE HISTORY—S. 1409 (H.R. 5118):

HOUSE REPORTS: No. 97-422 accompanying H.R. 5118 (Comm. on Interior and Insular Affairs), No. 97-855 (Comm. of Conference).

SENATE REPORTS: No. 97-375 accompanying H.R. 5118 (Comm. on Indian Affairs), 97-420 (Comm. on Energy and Natural Resources), No. 97-568 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 4, H.R. 5118 considered and passed House.

May 11, H.R. 5118 considered and passed Senate, amended.

May 12, H.R. 5118 House concurred in Senate amendment with amendments.

May 13, Senate concurred in House amendments.

June 1, H.R. 5118 vetoed by President.

June 22, considered and passed Senate.

Aug. 17, considered and passed House, amended.

Aug. 20, Senate concurred in House amendments with amendments.

Sept. 24, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

Public Law 97-294  
97th Congress

Joint Resolution

Oct. 12, 1982

[S.J. Res. 239]

Designating October 16, 1982, as "National Newspaper Carriers Appreciation Day".

Whereas newspapers and their availability to the citizens comprise a cornerstone of a free society and of our democracy, as affirmed under the freedom of the press clause of the first amendment to the United States Constitution;

Whereas every day more than one hundred and seven million Americans read one or more of the nine thousand three hundred and ninety-six daily, weekly, or other newspapers published in the United States;

Whereas 83 per centum of the daily newspapers printed in the United States are delivered to the homes of readers;

Whereas newspaper carriers have always played an important and vital role in the distribution of newspapers;

Whereas there are approximately one million newspaper carriers in the United States;

Whereas 90 per centum of such newspaper carriers are eighteen years of age or under; and

Whereas it is appropriate to acknowledge the too often unappreciated contribution of newspaper carriers to freedom, and to recognize their devoted efforts in delivering the paper regardless of inclement weather: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That October 16, 1982, be designated as "National Newspaper Carriers Appreciation Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate celebrations and activities.

Approved October 12, 1982.

National  
Newspaper  
Carriers  
Appreciation  
Day.

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LEGISLATIVE HISTORY—S.J. Res. 239:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 15, considered and passed Senate.  
Sept. 29, considered and passed House.

Public Law 97-295  
97th Congress

An Act

To amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code.

Oct. 12, 1982  
[H.R. 4623]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States  
Code, titles 10,  
14, 37, and 38,  
amendments.

AMENDMENTS TO TITLE 10

SECTION 1. Title 10, United States Code, is amended as follows:

(1) Section 133 is amended by adding at the end thereof the following: 10 USC 133.

“(e) After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on— Report to Congress.

“(1) the foreign policy and military force structure for the next fiscal year;

“(2) the relationship of that policy and structure to each other; and

“(3) the justification for the policy and structure.”.

(2)(A) Chapter 4 is amended by inserting the following after section 133:

“§ 133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness 10 USC 133a.

“(a) The Secretary of Defense shall assess and make findings each year with respect to the readiness status of the military forces of the North Atlantic Treaty Organization. The Secretary shall submit a report of the assessment and findings to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives on the same date that the President submits the Budget to Congress.

“(b) The report under subsection (a) shall include the assessment and findings of the Secretary with respect to—

“(1) deficiencies in the readiness of the North Atlantic Treaty Organization (including an analysis of deficiencies in each member of the Organization) related to—

“(A) war reserve stocks;

“(B) command, control, and communications systems (including the susceptibility of those systems to degradation by potential overt activities of the Warsaw Pact);

“(C) electronic warfare capabilities;

“(D) chemical warfare capabilities;

“(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);

“(F) armor and anti-armor capabilities;

“(G) firepower capabilities;

“(H) forward deployed units and the proximity of those units to assigned general defensive positions;

“(I) the availability of ammunition;

“(J) the availability, responsiveness, and overall effectiveness of reserve forces;

“(K) airlift capabilities to meet reinforcement and resupply requirements;

“(L) the ability to protect, cross-service, and stage air assets from allied airfields;

“(M) the maritime force capabilities (including sealift, minelaying, and minesweeping capabilities);

“(N) logistical support arrangements (including the availability of ports, airfields, transportation, and host nation support);

“(O) training (including the availability of the facilities and equipment needed to conduct realistic operational exercises); and

“(P) the compatibility of operational doctrine and procedures among military forces of the member nations;

“(2) planned corrections in the identified readiness deficiencies of the United States with respect to the Organization and that part of the Budget submitted to Congress by the President on the date the report is submitted that is allocated for the corrections; and

“(3) commitments made by other members of the Organization to correct their own readiness deficiencies (including deficiencies in the items listed in paragraph (1)) and an identification of particular improvements to be made in readiness by weapon system, program, or activity.

10 USC 133b.

**“§ 133b. Sale or transfer of defense articles: reports to Congress**

“When there is a letter of offer to sell or a proposal to transfer defense articles that are valued at \$50,000,000 or more from the inventories of a regular component of the armed forces or from current production, the Secretary of Defense shall submit a report to Congress stating—

“(1) the impact of the sale or transfer on the current readiness of the armed forces;

“(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the replacement costs of those items sold or transferred; and

“(3) for each article to be sold—

“(A) the initial issue quantity requirement for the armed forces for that article;

“(B) the percentage of that requirement already delivered to the armed forces or contracted for at the time of the report;

“(C) the timetable for meeting that requirement absent the proposed sale; and

“(D) the timetable for meeting that requirement if the sale is approved.”

(B) The analysis of chapter 4 is amended by inserting the following items immediately below item 133:

“133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness.

“133b. Sale or transfer of defense articles: reports to Congress.”

(3) Section 138(c) is amended by adding at the end thereof the following: 10 USC 138.

“(5) The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

“(A) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

“(B) include in each manpower requirements report submitted under paragraph (3) a complete justification for converting from one form of personnel to another.”

(4) Section 138 is amended by adding at the end thereof the following: *Ante*, p. 739.

“(i) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.”

(5) Section 268 is amended— 10 USC 268.

(A) in subsection (b), by striking out “Reserve components defined in section 261 of this title” and substituting “reserve components”, and by striking out “United States Code,”; and

(B) in subsection (c)(2), by striking out “Reserve” and substituting “reserve”.

(6) Section 511(b) is amended by striking out “(50 U.S.C. App. 451-473)” and substituting “(50 U.S.C. App. 451 et seq.)”. 10 USC 511.

(7) The catchline for section 532 is amended by inserting “a” after “original appointment as”. 10 USC 532.

(8) Section 624(d)(4) is amended by striking out “the subsection” and substituting “this subsection”. 10 USC 624.

(9) Section 673b(h) is amended by inserting “(50 U.S.C. 1541 et seq.)” after “the War Powers Resolution”. 10 USC 673.

(10) Section 716(a) is amended by striking out the comma after “policies”. 10 USC 716.

(11) Section 741(c) is amended by striking out “the the” and substituting “the”. 10 USC 741.

(12) Section 867 is amended— 10 USC 867.

(A) in subsection (d), by striking out “board of review” and substituting “Court of Military Review”; and

(B) in subsection (g), by striking out “Secretary of the Treasury” and substituting “Secretary of Transportation”.

(13) Section 931 is amended by striking out “United States Code,”. 10 USC 931.

(14)(A) Chapter 49 is amended by adding at the end thereof the following:

“§ 978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol Regulations. 10 USC 978.

“(a) The Secretary of Defense shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify each person examined at an armed forces examining and entrance station who is dependent on drugs or alcohol.

“(b) Each person identified under subsection (a) as dependent on drugs or alcohol shall be—

“(1) denied entrance into the armed forces; and  
 “(2) referred to a civilian treatment facility.”.

(B) The analysis of chapter 49 is amended by adding at the end thereof the following item:

“978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol.”.

(15)(A) Chapter 55 is amended by adding at the end thereof the following:

Regulations.  
 10 USC 1090.

**“§1090. Identifying and treating drug and alcohol dependence**

“(a) The Secretary of Defense shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.”.

(B) The analysis of chapter 55 is amended by adding at the end thereof the following item:

“1090. Identifying and treating drug and alcohol dependence.”.

10 USC 1164.

(16) The catchline for section 1164 is amended by striking out “officers;” and substituting “officers:”.

10 USC 1405.

(17) Section 1405 is amended—

(A) by striking out “3991 (formula B)” and substituting “3991 (formula A), 3992 (formula B)”;

(B) by striking out “or” the first time it appears; and

(C) by striking out “8991 (formula B)” and substituting “8991 (formula A), or 8992 (formula B)”.

10 USC 1448.

(18) The catchline for section 1448 is amended by striking out “plan” and substituting “Plan”.

Repeals.

10 USC 1581,  
 1582.

(19)(A) Sections 1581 and 1582 are repealed.

(B) The analysis of chapter 81 is amended by striking out items 1581 and 1582.

10 USC 1583,  
 1584, 1586.

(20)(A) Sections 1583, 1584, and 1586(d) and (e)(1) are amended by striking out “compensation” and substituting “pay”.

(B) The catchline for section 1583 is amended by striking out “compensation” and substituting “pay”.

(C) Item 1583 in the analysis of chapter 81 is amended to read as follows:

“1583. Employment of certain persons without pay.”.

10 USC 2203.

(21) Section 2203 is amended by adding at the end thereof the following new sentence: “The budget for the Department of Defense submitted to Congress for each fiscal year shall include data projecting the effect of the appropriations requested for materiel readiness requirements.”.

10 USC 2208.

(22) Section 2208(h) is amended by adding the following sentence after the 2d sentence: “However, supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense.”.

*Ante*, p. 169.

(23) Section 2239 is amended by striking out “section 3648 of the Revised Statutes (31 U.S.C. 529)” and substituting “section 3324(a) and (b) of title 31”.

10 USC 2304.

(24) Section 2304 is amended—

(A) in the first sentence of subsection (a), by inserting after “formal advertising” the following: “, and shall be awarded on a competitive bid basis to the lowest responsible bidder,”;

(B) in subsection (f)(1), by striking out “Healy” and substituting “Healey”; and

(C) by adding at the end thereof the following:

“(i)(1) The Secretary shall require each prime contractor receiving contract awards of at least \$500,000 from the Department of Defense to file a report with the Secretary at the end of the year identifying—

“(A) the amount of Department work (in dollars) that the contractor had performed by a subcontractor during the year; and

“(B) the State in which each subcontractor performed the work subcontracted to it.

“(2) The Secretary shall submit to Congress each year a report identifying, on a State-by-State basis, the total amount of Department money paid to subcontractors by the prime contractor described in paragraph (1) during the year for which the report is submitted.”

Report to Congress.

(25) Section 2315 is amended by striking out “(40 U.S.C. 795)” and substituting “(40 U.S.C. 759)”. 10 USC 2315.

(26)(A) Chapter 137 is amended by adding at the end thereof the following:

**“§ 2316. Disclosure of identity of contractor**

10 USC 2316.

“The Secretary of Defense may disclose the identity or location of a person awarded a contract by the Department of Defense to any individual, including a Member of Congress, only after the Secretary makes a public announcement identifying the contractor. When the identity of a contractor is to be made public, the Secretary shall announce publicly that the contract has been awarded and the identity of the contractor.”

(B) The analysis of chapter 137 is amended by inserting the following item immediately below item 2314:

“2316. Disclosure of identity of contractor.”

(27) Section 2388(c) is amended by striking out “section 3648 of the Revised Statutes (31 U.S.C. 529)” and substituting “section 3324 (a) and (b) of title 31”. *Ante*, p. 175.

(28)(A) Section 2394 (as enacted by section 2(b)(4) of Public Law 97-258) is redesignated as section 2395 and is amended to read as follows: *Ante*, p. 1052.

**“§ 2395. Availability of appropriations for procurement of technical military equipment and supplies**

10 USC 2395.

“Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies remain available until spent.”

(B) Section 2395 (as enacted by section 2(b)(4) of Public Law 97-258) is redesignated as section 2396 and is amended by striking out “another” in subsection (b)(2)(C) and substituting “any other”. *Ante*, p. 1053.

(29)(A) Chapter 141 is amended by adding at the end thereof the following:

**“§ 2397. Employees or former employees of defense contractors: reports**

10 USC 2397.

“(a) In this section:

Definitions.

“(1) ‘Contract’ means a contract awarded by negotiation (including the net amount of modifications to, and the exercise of options under, the contract) that involves at least \$10,000.

“(2) ‘Defense contractor’ means a person that provides services, supplies, or both (including construction) to the Department of Defense under a contract directly with the Department.

“(3) ‘Served’, when used with ‘otherwise’, includes the representation of a defense contractor—

“(A) at a hearing, trial, appeal, or other action in which the United States was a party and that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor; and

“(B) in a transaction with the Department that involved services, supplies, or both (including construction) that were provided to, or to be provided to, the Department by the contractor.

“(b)(1) This subsection applies to—

“(A) a former or retired officer of the Army, Navy, Air Force, or Marine Corps who (i) has at least 10 years of active service, and (ii) held for any period during that service a grade above captain or, if the Navy, above lieutenant; and

“(B) a former civilian official or employee (including a consultant or part-time employee) of the Department of Defense whose pay rate (at any time during the 3-year period before the end of the last service of the person with the Department) was at least equal to the minimum rate at the time for GS-13.

“(2) A person to whom this subsection applies who (A) was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a fiscal year at an annual pay rate of at least \$15,000 and the contractor was awarded contracts by the Department during that fiscal year that total at least \$10,000,000, and (B) within the 3-year period before the beginning of that fiscal year served on active duty or performed civilian service for the Department, shall file a report with the Secretary of Defense (before February 16 of the next succeeding fiscal year) in the way prescribed by the Secretary.

“(3) The report shall contain the following information:

“(A) The name and address of the person reporting.

“(B) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

“(C) The title of the position of the person when serving the defense contractor.

“(D) A brief description of the duties and work performed by the person for the defense contractor.

“(E) The military grade of the person while on active duty or the gross pay rate while performing civilian service for the Department.

“(F) A brief description of the duties and the work performed by the person while on active duty or performing civilian service for the Department during the 3-year period before that duty or service ended.

“(G) The date the active duty or civilian service by the person for the Department ended and the date the service with the defense contractor began and, if applicable, ended.

“(H) Other pertinent information the Secretary requires.



“(c)(1) A person who (A) holds civilian office or employment (including employment as a consultant or part-time employee) in the Department at any time during a fiscal year at a pay rate at least equal to the minimum rate for GS-13, and (B) within the 3-year period before the effective date of employment with the Department was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a fiscal year at an annual pay rate of at least \$15,000 and the contractor was awarded contracts by the Department during that fiscal year that total at least \$10,000,000, shall file a report with the Secretary in the way and at the time prescribed by the Secretary.

“(2) The report shall contain the following information:

“(A) The name and address of the person reporting.

“(B) The title of the position of the person with the Department.

“(C) A brief description of the duties with the Department.

“(D) The name and address of the defense contractor that employed the person or for whom the person served as a consultant or otherwise.

“(E) The title of the position of the person when serving the defense contractor.

“(F) A brief description of the duties and the work performed by the person for the defense contractor.

“(G) The date the service of the person with the defense contractor ended and the date the service with the Department began.

“(H) Other pertinent information the Secretary requires.

“(d) The Secretary shall maintain a file containing the information filed under this section. The file may be inspected by members of the public at any time during regular work hours.

Files, inspection.

“(e) Before April 1 of each year, the Secretary shall report to Congress the names of persons who have filed reports for the preceding fiscal year under this section. The names shall be listed, by groups, under the names of the appropriate defense contractors. The Secretary may include for each name appropriate additional information.

Report to Congress.

“(f) A person not complying with the filing requirements of this section shall be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

Penalty.

#### “§ 2398. Procurement of gasohol as motor vehicle fuel

10 USC 2398.

“To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.

#### “§ 2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance

10 USC 2399.

“None of the funds appropriated to the Department of Defense is available for obligation to reimburse a contractor for the cost of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

10 USC 2400.

**“§ 2400. Limitation on procurement of buses**

“Funds appropriated for use by the armed forces are available to acquire a multipassenger motor vehicle (bus) only if the vehicle is manufactured in the United States. However, the Secretary of Defense may prescribe regulations authorizing the acquisition of a multipassenger motor vehicle (bus) not manufactured in the United States, but only to ensure that compliance with this section will not result in an uneconomical procurement action or adversely affect the national interest.”.

(B) The analysis of chapter 141 is amended by striking out items 2394 and 2395 (as enacted by section 2(b)(4) of Public Law 97-258) and substituting the following:

“2395. Availability of appropriations for procurement of technical military equipment and supplies.

“2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries.

“2397. Employees or former employees of defense contractors: reports.

“2398. Procurement of gasohol as motor vehicle fuel.

“2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance.

“2400. Limitation on procurement of buses.”.

(30)(A) Chapter 145 is amended by adding at the end thereof the following:

10 USC 2457.

**“§ 2457. Standardization of equipment with North Atlantic Treaty Organization members**

“(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

“(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the members to standardize equipment;

“(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

“(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

“(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance’s armaments production base

by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

“(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

“(2) negotiate those agreements.

“(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

“(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a ‘two-way street’ concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

“(d) Before February 1 of each year, the Secretary shall submit a report to Congress that includes—

Report to  
Congress.

“(1) each specific assessment and evaluation made and the results of each assessment and evaluation, and the results achieved with the members of the North Atlantic Treaty Organization, under subsections (a)(1) and (2) and (b);

“(2) procurement action initiated on each new major system not complying with the policy of subsection (a);

“(3) procurement action initiated on each new major system that is not standardized or interoperable with equipment of other members of the Organization, including a description of the system chosen and the reason for choosing that system;

“(4) the identity of—

“(A) each program of research and development for the armed forces of the United States stationed in Europe that supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization; and

“(B) the common requirements of the Organization to which those programs conform or which they support;

“(5) action of the Alliance toward common Organization requirements if none exist;

“(6) efforts to establish a regular procedure and mechanism in the Organization to determine common military requirements;

“(7) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the Organization other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted, including a summary listing of the amount of funds—

“(A) appropriated for those programs for the fiscal year in which the report is submitted; and

“(B) requested, or proposed to be requested, for those programs for each of the 2 fiscal years following the fiscal year for which the report is submitted; and

“(8) a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the Organization other than the United States during the fiscal year for which the report is submitted.

“(e) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), that acquiring that equipment manufactured in the United States is inconsistent with the public interest.

“(f) The Secretary shall submit the results of each assessment and evaluation made under subsection (a) (1) and (2) to the appropriate North Atlantic Treaty Organization body to become an integral part of the overall Organization review of force goals and development of force plans.”.

(B) The analysis of chapter 145 is amended by inserting the following item immediately below item 2456:

“2457. Standardization of equipment with North Atlantic Treaty Organization members.”.

Repeal.  
*Ante*, p. 1054.

(31)(A) Section 2661a is repealed.

(B) The analysis of chapter 159 is amended by striking out item 2661a.

10 USC 2664.

(32) Section 2664(a) is amended—

(A) by striking out “military department” in the matter before paragraph (1) and all that follows through “or any” and substituting “military department, the Secretary of Transportation, or any”; and

(B) by striking out “transferred to the” in paragraph (3) and all that follows and substituting “transferred to the Secretary of Transportation under section 3 of the Maritime Act of 1981 (46 U.S.C. 1602).”.

95 Stat. 151.  
10 USC 2665.

(33) Section 2665 is amended—

(A) by striking out “executive department” and all that follows through “may sell” in subsections (a) and (b) and substituting “executive department, may sell”; and

(B) by striking out “Air Force” and all that follows in subsection (b) and substituting “Air Force, or Department of Transportation.”.

10 USC 2667.

(34) Section 2667(b)(4) is amended by striking out “section 321” and all that follows through “(40 U.S.C. 303b)” and substituting “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)”.

*Ante*, p. 164.

(35) Section 2852(a) is amended by striking out “section 3648 of the Revised Statutes (31 U.S.C. 529)” and substituting “section 3324 (a) and (b) of title 31”.

*Ante*, p. 167.

(36) Section 2859 is amended by striking out “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)” and substituting “section 1105 of title 31”.

10 USC 3068.

(37) Section 3068(5) is amended by striking out “(a)”, “(b)”, “(c)”, “(d)”, and “(e)” and substituting “(A)”, “(B)”, “(C)”, “(D)”, and “(E)”, respectively.

10 USC 3036.

(38) Section 3036(d) is amended to read as follows:

(B) The analysis of chapter 403 is amended by adding at the end thereof the following item:

“4356. Use of certain gifts.”.

10 USC 4656.

(42) Section 4656 is amended by striking out “, and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots”.

Repeal.

10 USC 4772.

(43)(A) Section 4772 is repealed.

(B) The analysis of chapter 449 is amended by striking out item 4772.

10 USC 6954.

(44) Section 6954(f) is amended by striking out “Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the” and substituting “The”.

10 USC 7087.

(45) Section 7087(a) is amended by striking out “Civil Service Commission” and substituting “Director of the Office of Personnel Management”.

10 USC 7218.

(46) Section 7218(b) is repealed.

10 USC 7299.

(47) Section 7299 is amended by striking out “Healy” and substituting “Healey”.

(48)(A) Chapter 633 is amended by inserting the following after section 7299:

10 USC 7299a.

**“§ 7299a. Construction of combatant and escort vessels and assignment of vessel projects**

“(a) The distribution of assignments and contracts for the construction of combatant vessels and escort vessels is subject to the Act of March 27, 1934 (ch. 95, 48 Stat. 503), requiring that the first and each succeeding alternate vessel be constructed in a Navy yard. However, the President may direct that a vessel be constructed in a Navy or private yard if the requirement of this subsection is inconsistent with the public interest.

“(b) The assignment of naval vessel conversion, alteration, and repair projects shall be based on economic and military considerations and may not be restricted by a requirement that certain parts of naval shipwork be assigned to a particular type of shipyard or geographical area or by a similar requirement.”.

(B) The analysis of chapter 633 is amended by inserting the following item immediately below item 7299:

“7299a. Construction of combatant and escort vessels and assignment of vessel projects.”.

(49)(A) Chapter 633 is amended by adding at the end thereof the following:

10 USC 7310.

**“§ 7310. Policy in constructing combatant vessels**

“(a) The policy of the United States is to modernize the combatant forces of the Navy through the construction of advanced, versatile, survivable, and cost-effective combatant vessels in sufficient numbers and having sufficient combat effectiveness to defend the United States against attack and to carry out other missions that may be assigned to the Navy by law. To carry out this policy, the Navy should develop plans and programs for the construction and deployment of weapons systems, including naval aviation platforms, that are more survivable, less costly, and more effective than those in the Navy on October 20, 1978.

Request to Congress.

“(b) The President shall include in each request made to Congress for authorization of a vessel for the combatant forces (including an aircraft carrier)—

“(1) the conclusions of the President related to the survivability, cost-effectiveness, and combat effectiveness of the vessel requested;

“(2) a recommendation whether the vessel should be nuclear or conventionally powered; and

“(3) the reasons for the conclusions and recommendations.”.

(B) The analysis of chapter 633 is amended by adding at the end thereof the following item:

“7310. Policy in constructing combatant vessels.”.

(50)(A) Sections 7391-7394 are repealed.

Repeals.  
10 USC  
7391-7394.

(B) The analysis of chapter 639 is amended by striking out items 7391-7394.

(C) Subtitle A is amended by inserting at the end of chapter 165 the following:

## “CHAPTER 167—DEFENSE MAPPING AGENCY

“Sec.

“2791. Establishment and duties.

“2792. Maps, charts, and books.

“2793. Pilot charts.

“2794. Prices of maps, charts, and navigational publications.

### “§ 2791. Establishment and duties

10 USC 2791.

“The Defense Mapping Agency is an agency of the Department of Defense. The Defense Mapping Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

### “§ 2792. Maps, charts, and books

10 USC 2792.

“The Secretary of Defense may—

“(1) have the Defense Mapping Agency prepare maps, charts, and nautical books required in navigation and have those materials published and furnished to navigators; and

“(2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

### “§ 2793. Pilot charts

10 USC 2793.

“(a) There shall be conspicuously printed on pilot charts prepared in the Defense Mapping Agency the following: ‘Prepared from data furnished by the Defense Mapping Agency of the Department of Defense and by the Department of Commerce, and published at the Defense Mapping Agency under the authority of the Secretary of Defense’.

“(b) The Secretary of Commerce shall furnish to the Defense Mapping Agency, as quickly as possible, all meteorological information received by the Secretary that is necessary for, and of the character used in, preparing pilot charts.

### “§ 2794. Prices of maps, charts, and navigational publications

10 USC 2794.

“All maps, charts, and other publications offered for sale by the Defense Mapping Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.”.

(53) Section 9656 is amended by striking out “, and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots”. 10 USC 9656.

## AMENDMENTS TO TITLE 14

SEC. 2. Title 14, United States Code, is amended as follows:

(1) Section 46(a) is amended by striking out “commandant” and substituting “Commandant”. 14 USC 46.

(2) The last sentence of section 47(a) is amended by striking out “an” and substituting “a”. 14 USC 47.

(3) Section 82 is amended by striking out “(ch. 20 of title 49)” and “sections 7392 and 7394 of title 10” and substituting “(49 U.S.C. 1301 et seq.)” and “chapter 167 of title 10”, respectively. 14 USC 82.

(4) Sections 92(d), 93(h), and 641(a) are amended by striking out “, as amended,” and substituting “(40 U.S.C. 471 et seq.)”. 14 USC 92, 93, 641.

(5) Section 147 is amended by striking out “Admmistration” and substituting “Administration”. 14 USC 147.

(6)(A) Chapter 7 is amended by inserting the following after section 147:

**“§147a. Department of Health and Human Services**

14 USC 147a.

“(a) The Commandant may assist the Secretary of Health and Human Services in providing medical emergency helicopter transportation services to civilians. The Commandant may prescribe conditions, including reimbursement, under which resources may be provided under this section. The following specific limitations apply to assistance provided under this section:

“(1) Assistance may be provided only in areas where Coast Guard units able to provide the assistance are regularly assigned. Coast Guard units may not be transferred from one area to another to provide the assistance.

“(2) Assistance may be provided only to the extent it does not interfere with the performance of the Coast Guard mission.

“(3) Providing assistance may not cause an increase in amounts required for the operation of the Coast Guard.

“(b) An individual (or the estate of that individual) who is authorized by the Coast Guard to provide a service under a program established under subsection (a) and who is acting within the scope of that individual’s duties is not liable for injury to, or loss of, property or personal injury or death that may be caused incident to providing the service.”.

(B) The analysis of chapter 7 is amended by inserting the following item immediately below item 147:

“147a. Department of Health and Human Services.”.

(7)(A) Item 186 in the analysis of chapter 9 is amended to read as follows:

“186. Civilian teaching staff.”.

(B) Item 195 in the analysis of chapter 9 is amended to read as follows:

“195. Admission of foreign nationals for instruction; restrictions; conditions.”.

- 14 USC 182. (8) Section 182(b) is amended by striking out “United States Code,”.
- 14 USC 283, 362. (9) Sections 283(b) and 362 are amended by striking out “of this chapter” and substituting “of this title”.
- 14 USC 322, 323, 327. (10) Sections 322(d), 323(c), and 327 are amended by inserting “of this title” immediately after each reference to “section 321” and “section 322 or 323”.
- 14 USC 371, 432, 433, 475. (11) Sections 371(b), 432(g), 433(g), and 475(b) are amended by striking out “per centum” and substituting “percent”.
- 14 USC 423. (12) Section 423(b) is amended by striking out “on or after the date of enactment of the Department of Defense Authorization Act, 1981” and substituting “after September 7, 1980”.
- 14 USC 432. (13) Section 432(f) is amended by striking out “the civil service classification laws and titles II and III of the Federal Employees Pay Act of 1945 as amended” and substituting “chapter 51, subchapter III of chapter 53, and sections 5542-5546 of title 5”.
- 14 USC 433, 434. (14) Sections 433(f) and 434 are amended by striking out “sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of title 5” and substituting “subchapter III of chapter 83 of title 5”.
- Repeal. (15)(A) Section 473 is repealed.
- 14 USC 473. (B) The analysis of chapter 13 is amended by striking out item 473.
- 14 USC 512. (16) Section 512 is amended by striking out “, United States Code,” and “, United States Code”.
- (17) The analysis of chapter 17 is amended by striking out item 645.
- 14 USC 634. (18) Section 634(b) is amended—  
 (A) in the first sentence, by striking out “United States Commissioners or”; and  
 (B) by striking out the 2d sentence.
- Repeal. (19)(A) Section 659 is repealed.
- 14 USC 659. (B) The analysis of chapter 17 is amended by striking out item 659.
- (20)(A) Chapter 17 is amended by adding at the end thereof the following:
- 14 USC 661. **“§ 661. Authorization of personnel end strengths**  
 “(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law.  
 “(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:  
 “(A) Recruit and specialized training.  
 “(B) Flight training.  
 “(C) Professional training in military and civilian institutions.  
 “(D) Officer acquisition training.



“(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.

**“§ 662. Requirement for prior authorization of appropriations**

14 USC 662.

“Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

“(1) For the operation and maintenance of the Coast Guard.

“(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

“(3) For altering obstructive bridges.

“(4) For research, development, test, or evaluation related to a matter referred to in clauses (1)–(3).

**“§ 663. Submission of plans to Congress**

14 USC 663.

“The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard’s Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan.”

(B) The analysis of chapter 17 is amended by adding at the end thereof the following items:

“661. Authorization of personnel end strengths.

“662. Requirement for prior authorization of appropriations.

“663. Submission of plans to Congress.”

(21) Section 707(e) is amended—

14 USC 707.

(A) in clause (1), by striking out “per centum” wherever it appears and substituting “percent”; and

(B) in clause (1)(A), by inserting “(42 U.S.C. 401 et seq.)” after “Social Security Act”.

(22) Item 733 in the analysis of chapter 21 is amended to read as follows:

“733. Recommendation for promotion of an officer previously removed from an active status.”

**AMENDMENTS TO TITLE 37**

**SEC. 3.** Title 37, United States Code, is amended as follows:

(1) Section 305a(d) is amended by striking out “clause (B)” in the 2d sentence and substituting “clause (2)”. 37 USC 305a.

(2) Section 308b(a)(1) is amended by striking out “services” and substituting “service”. 37 USC 308b.

(3) Section 312a(c) is amended—

37 USC 312a.

(A) by striking out “308(c)” and substituting “308(a)”; and

(B) by striking out the last sentence.

(4) Section 406 is amended by adding at the end thereof the following: *Ante*, p. 1061.

“(k) Appropriations available to the Department of Defense to carry out subsection (b) of this section are available to pay a monetary allowance to a member when the member participates in a program in which baggage and household effects of the member Transportation allowance.

are transported by a privately owned or rental vehicle under regulations of the Secretary of the military department concerned. The allowance is not limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. However, the amount of the allowance shall provide a savings to the United States when the total cost of the transportation is compared with the cost that would be incurred under subsection (b) of this section.”

37 USC 707.

(5) Section 707 is amended—

(A) by inserting “(a)” before “The Secretary”; and

(B) by adding at the end thereof the following:

“(b) The United States is not liable for loss or damage suffered by a person as a result of an error made by an officer or employee of the United States in carrying out the allotment program under subsection (a) of this section.”

(6)(A) Chapter 17 is amended by adding at the end thereof the following:

37 USC 908.

**“§ 908. Employment of reserves and retired members by foreign governments**

“(a) Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

“(1) Retired members of the uniformed services.

“(2) Members of a reserve component of the armed forces.

“(3) Members of the Commissioned Reserve Corps of the Public Health Service.

“(b) A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.”

(B) The analysis of chapter 17 is amended by adding at the end thereof the following:

“908. Employment of reserves and retired members by foreign governments.”

**AMENDMENTS TO TITLE 38**

**SEC. 4. Title 38, United States Code, is amended as follows:**

(1) The analysis of title 38 is amended—

(A) by amending item 31 to read as follows:

“31. Training and Rehabilitation for Veterans with Service-Connected Disabilities..... 1500”;

(B) by amending item 34 to read as follows:

“34. Veterans’ Educational Assistance ..... 1651”;

and

(C) by inserting the following item immediately below item 81:

“82. Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions ..... 5070”.

38 USC 101.

(2) Section 101(4) is amended by striking out “within two years after the veteran’s death or the date of enactment of this

sentence” and substituting “before August 26, 1961, or within two years after the veteran’s death”.

(3) Section 106 is amended—

38 USC 106.

(A) in subsection (a)(2), by striking out “the Federal Employees’ Compensation Act” and substituting “subchapter I of chapter 81 of title 5”; and

(B) in subsection (e), by striking out “the Act of June 27, 1944 (58 Stat. 387-391), as a person described in section 2(1) of such Act” and substituting “title 5 as a preference eligible described in section 2108(3)(C) of title 5”.

(4) Section 107(a)(2) is amended by striking out “the Missing Persons Act” and substituting “chapter 10 of title 37”.

38 USC 107.

(5) Section 111(e)(4) is amended by striking out “, and not later than sixty days after the effective date of this subsection, and thereafter” and substituting “and”.

38 USC 111.

(6) Section 230(b) is amended by striking out “Phillipines” and substituting “Philippines”.

38 USC 230.

(7) Section 243(a)(3)(E) is amended by striking out “, as amended” and substituting “(20 U.S.C. 1070e-1)”.

38 USC 243.

(8) Section 246 is amended—

38 USC 246.

(A) by striking out “per centum” wherever it appears and substituting “percent”;

(B) by striking out “Commissioner of Education, Department of Health, Education, and Welfare” and “Commissioner of Education” wherever they appear and substituting “Secretary of Education”;

(C) in subsection (b)(1)(B), by inserting “(20 U.S.C. 1070e)” after “the Higher Education Act of 1965”;

(D) in subsection (c)(1)(A), by inserting “(20 U.S.C. 1070e(c)(1))” after “the Higher Education Act of 1965”; and

(E) in subsection (f)—

(i) by inserting “(20 U.S.C. 1001 et seq.)” after “the Higher Education Act of 1965”; and

(ii) by striking out “the Commissioner shall” and substituting “the Secretary shall”.

(9) The analysis of chapter 11 is amended by inserting the following item immediately below item 360:

“361. Payment of disability compensation in disability severance cases.”.

(10) Section 415 is amended—

38 USC 415.

(A) in subsection (f)(1)(D), by striking out “subchapter II of chapter 7 of title 42” and substituting “title II of the Social Security Act (42 U.S.C. 401 et seq.)”; and

(B) in subsection (f)(1)(G), by striking out “per centum” and substituting “percent”.

(11) Sections 416 and 417 are amended by striking out “the Federal Employees’ Compensation Act” wherever it appears and substituting “subchapter I of chapter 81 of title 5”.

38 USC 416, 417.

(12) Section 422(a) is amended by striking out “section 402 of title 42” and substituting “section 202 of the Social Security Act (42 U.S.C. 402)”.

38 USC 422.

(13) Section 503(a)(10)(A) is amended by inserting “(26 U.S.C. 6012(a))” after “the Internal Revenue Code of 1954”.

38 USC 503.

(14) Item 560 in the analysis of chapter 15 is amended to read as follows:

“560. Medal of Honor Roll; persons eligible.”.

(15) Item 624 in the analysis of chapter 17 is amended to read as follows:

“624. Hospital care, medical services, and nursing home care abroad.”.

38 USC 602.

(16) Section 602 is amended by striking out “or February 1, 1957, in the case of a veteran of the Korean conflict, or before the expiration of two years following termination of the Vietnam era” and substituting “before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977,”.

38 USC 612.

(17) Section 612 is amended—

(A) in subsection (a), by inserting “of this section” after “subsection (b)”;

(B) in subsection (a), insert “)” before the period at the end of the 2d sentence;

(C) in subsection (f)(2), by striking out “per centum” and substituting “percent”;

(D) in subsection (h), by inserting “of this title” after “chapter 11”; and

(E) in subsection (i), by striking out “Not later than ninety days after the effective date of this subsection, the” and substituting “The”.

38 USC 617.

(18) Section 617 is amended by striking out “subsections 314(l)–(p) (or the comparable rates provided pursuant to section 334) of this title” and substituting “section 314(l)–(p) of this title (or the comparable rates provided pursuant to section 334 of this title)”.

38 USC 620.

(19) Section 620 is amended—

(A) in subsection (a), by striking out “per centum” wherever it appears and substituting “percent”; and

(B) in subsection (c)—

(i) by inserting “(41 U.S.C. 351(b)(1))” after “the Service Contract Act of 1965”; and

(ii) by striking out “, as amended,” and substituting “(29 U.S.C. 206(b))”.

38 USC 624.

(20) The catchline for section 624 is amended by striking out “Hospital care and medical services abroad” and substituting “Hospital care, medical services, and nursing home care abroad”.

38 USC 704.

(21) Section 704(e) is amended—

(A) in the first sentence, by striking out “On and after the effective date of this subsection” and substituting “After June 30, 1972,”; and

(B) in the 3d sentence, by striking out “subsections” and substituting “subsection”.

38 USC 707.

(22) Section 707(c) is amended by striking out “within six calendar months after the effective date of this subsection” and substituting “before February 1, 1973”.

38 USC 712.

(23) Section 712(d) is amended by striking out “the date of enactment of this subsection” and substituting “June 8, 1960”.

38 USC 718.

(24) Section 718 (a) and (b) is amended by striking out “on or after the date of enactment of this sentence” and substituting “after July 26, 1962” and “after July 26, 1962,” respectively.

38 USC 725.

(25) Section 725 is amended—

(A) by striking out “per centum” wherever it appears and substituting “percent”; and

- (B) in subsection (a), by striking out “within one year after the effective date of this section” and substituting “before May 2, 1966”.
- (26) Sections 743 and 744 are amended by striking out “per centum” wherever it appears and substituting “percent”. 38 USC 743, 744.
- (27) Section 748 is amended by striking out “permium” and substituting “premium”. 38 USC 748.
- (28) Section 760(b) is amended by striking out “per centum” and substituting “percent”. 38 USC 760.
- (29) Section 766(a) is amended by striking out “per centum” and substituting “percent”. 38 USC 766.
- (30) Section 768(a)(5) is amended by striking out “this amendment” and substituting “the amendment made by section 5(a) of the Veterans’ Insurance Act of 1974 (Public Law 93-289, 88 Stat. 166)”. 38 USC 768.
- (31) Section 770(g) is amended by inserting “(26 U.S.C. 6331 et seq.)” after “the Internal Revenue Code of 1954”. 38 USC 770.
- (32) Section 784 is amended— 38 USC 784.
- (A) in subsection (b), by striking out “said claim: *Provided*, That in any case in which” and substituting “the claim. However, if”; and
- (B) in subsection (c), by striking out “district: *Provided*, That” and “herein” and substituting “district. However,” and “in this section”, respectively.
- (33) Section 802(a) is amended by striking out “per centum” wherever it appears and substituting “percent”. 38 USC 802.
- (34) Section 1003(c) is amended by striking out “Act” and substituting “chapter”. 38 USC 1003.
- (35) The analysis of part III is amended—
- (A) by amending item 31 to read as follows:
- “31. Training and Rehabilitation for Veterans with Service-Connected Disabilities..... 1500”;
- (B) by amending item 34 to read as follows:
- “34. Veterans’ Educational Assistance ..... 1651”.
- (36) Item 1625 in the analysis of chapter 32 is amended to read as follows:
- “1625. Discharge or release under conditions which would bar the use of benefits.”.
- (37) The text of section 1642 is amended to read as follows: 38 USC 1642.
- “The Administrator and the Secretary shall submit a joint report each year to the Committees on Veterans’ Affairs of the Senate and House of Representatives detailing the operations of the program provided for in this chapter during the preceding year. The report shall be submitted by January 15 of each year.”. Report to Congress.
- (38) Section 1652(b) is amended by striking out “402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))” and substituting “section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1))”. 38 USC 1652.
- (39) Section 1662 is amended— 38 USC 1662.
- (A) in subsection (a)(2)(B), by striking out “the date of enactment of this paragraph” and substituting “November 23, 1977,”; and
- (B) in subsection (c)—

(i) by striking out “the date for which an educational assistance allowance is first payable under this chapter” and substituting “June 1, 1966”; and

(ii) by striking out “the date of enactment of this sentence” wherever it appears and substituting “August 31, 1967,” and “August 31, 1967”, respectively.

38 USC 1673.

(40) Section 1673(d) is amended by striking out “per centum” wherever it appears and substituting “percent”.

38 USC 1682A.

(41) Section 1682A(b)(8) is amended by striking out “within five years after the date of enactment of this section” and substituting “before November 24, 1982”.

38 USC 1685.

(42) Section 1685(a) is amended by inserting “(29 U.S.C. 206(a))” after “the Fair Labor Standards Act of 1938” the first time it appears.

38 USC 1691.

(43) Section 1691 is amended—

(A) in subsection (a), by inserting “of this title” after “section 1671”; and

(B) in subsection (b)(2), by inserting “of this title” after “section 1682(a)”.

38 USC 1712.

(44) Section 1712 is amended—

(A) in subsection (a), by inserting “of this title” after “section 1701(a)(1)(A)” and by inserting “:” after “last occurs”; and

(B) in subsection (b), by striking out “of this chapter” and substituting “of this title”; and

(C) in subsection (e), by striking out “the date of enactment of this subsection” and substituting “December 24, 1970”.

38 USC 1720.

(45) Section 1720 is amended—

(A) in subsection (a), by inserting “of this title” after “section 1701(a)(1)(A)”; and

(B) in subsection (b), by striking out “of this chapter” and substituting “of this title”.

38 USC 1763.

(46) Section 1763 is amended by striking out “of this chapter” and substituting “of this title”.

38 USC 1765.

(47) Section 1765(a) is amended by inserting “of this title” after “section 1766”.

(48) Item 1780 in the analysis of chapter 36 is amended to read as follows:

“1780. Payment of educational assistance or subsistence allowances.”.

38 USC 1770.

(49) Section 1770(b) is amended by striking out “the date of enactment of this chapter” and “section 1778” and substituting “March 3, 1966” and “section 1779”, respectively.

38 USC 1772.

(50) Section 1772 is amended—

(A) by inserting “of this title” after “34 and 35” wherever it appears; and

(B) in subsection (c)(1), by striking out “section 50a of title 29” and substituting “section 2 of the Act of August 16, 1937 (popularly known as the ‘National Apprenticeship Act’) (29 U.S.C. 50a),”.

38 USC 1773,  
1774.

(51) Sections 1773 and 1774(a) are amended by inserting “of this title” after “34 and 35” wherever it appears.

38 USC 1780.

(52) Section 1780 is amended—

(A) in subsection (a), by striking out “1504” and substituting “1508”;

- (B) in subsection (a)(5), by striking out “the 6 months” and substituting “than 6 months”; and
- (C) in subsection (a)(A)–(C), by inserting “of this subsection” after “clause (2)” wherever it appears.
- (53) Section 1781 is amended by striking out “the Government Employees’ Training Act” and substituting “chapter 41 of title 5”. 38 USC 1781.
- (54) Section 1783(a) is amended by inserting “of this title” after “34 or 35”. 38 USC 1783.
- (55) Section 1784(c) is amended by striking out “per centum” and substituting “percent”. 38 USC 1784.
- (56) Section 1786(c) is amended by striking out “per centum” wherever it appears and substituting “percent”. 38 USC 1786.
- (57) Section 1787(a) is amended— 38 USC 1787.
- (A) by striking out “section 50a of title 29” and substituting “section 2 of the Act of August 16, 1937 (popularly known as the ‘National Apprenticeship Act’) (29 U.S.C. 50a)”; and
- (B) by inserting “of this title” after “34 and 35”.
- (58) Section 1788(a)(6) is amended by inserting “of this subsection” after “or (4)”. 38 USC 1788.
- (59) Section 1790 is amended— 38 USC 1790.
- (A) in subsection (a), by striking out “after the effective date of section 1780 of this title” and “or 35, of” and substituting “after October 24, 1972” and “or 35 of”, respectively; and
- (B) in subsection (b), by striking out “35,” and substituting “35 of this title.”
- (60) Section 1798(b)(2)(B)(iii) is amended by striking out “, as amended” and substituting “(20 U.S.C. 1070 et seq.)”. 38 USC 1798.
- (61) Sections 1799(e), 1802(f), and 1803(a)(1) are amended by striking out “per centum” wherever it appears and substituting “percent”. 38 USC 1799, 1802, 1803.
- (62) Section 1801(b)(3) is amended by striking out “spouse shall be deemed” and “spouse is no longer listed” and substituting “member shall be deemed” and “member is no longer listed”, respectively. 38 USC 1801.
- (63) Section 1803 is amended— 38 USC 1803.
- (A) in subsection (a)(2), by striking out “prior to the date of enactment of the Veterans’ Housing Act of 1970” and substituting “before October 23, 1970,”;
- (B) in subsection (c)(1), by inserting “(12 U.S.C. 1709(b))” after “the National Housing Act”; and
- (C) in subsection (d)(3), by striking out “the effective date of this amendment” and substituting “June 6, 1969”.
- (64) Section 1804(e) is amended— 38 USC 1804.
- (A) by inserting “(12 U.S.C. 1749aa et seq.)” after “the National Housing Act”; and
- (B) by striking out “the date of the enactment of the Housing and Urban Development Act of 1965” and substituting “August 10, 1965”.
- (65) Section 1811 is amended— 38 USC 1811.
- (A) in subsection (c)(2), by striking out “sections 1000–1029 of title 7 or under sections 1471–1483 of title 42” and substituting “title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.)”;

(B) in subsection (d)(2)(B), by striking out “the date of the enactment of the Veterans’ Housing Benefits Act of 1978” and substituting “October 18, 1978,”; and

(C) in subsection (j), by striking out “per centum” wherever it appears and substituting “percent”.

38 USC 1818,  
1819.

(66) Sections 1818(b) and 1819(l) are amended by striking out “the date of enactment of the Veterans’ Housing Act of 1970” and substituting “October 23, 1970,” and “October 23, 1970”, respectively.

38 USC 1820.

(67) Section 1820(f) is amended by inserting “(42 U.S.C. 5121 et seq.)” after “the Disaster Relief Act of 1974”.

38 USC 1823.

(68) Section 1823(b) is amended by striking out “the date of enactment of this sentence” and substituting “February 29, 1964”.

38 USC 1904.

(69) Section 1904(b) is amended—

(A) by striking out “Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare” and substituting “Health and Human Services and the Secretary of Education”; and

(B) by striking out “section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), and section 204(b)(2) of such Act” and substituting “section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))”.

38 USC 2003.

(70) Section 2003 is amended by striking out “chapter 51 of” and substituting “chapter 51 and”.

38 USC 2022.

(71) Section 2022(a) is amended by striking out “section 2024” and substituting “2024 of this title”.

38 USC 2023.

(72) Section 2023 is amended—

(A) by striking out “United States Civil Service Commission” and “Commission” (except when referring to the Postal Rate Commission) wherever they appear and substituting “Director of the Office of Personnel Management” and “Director”, respectively;

(B) in subsection (a), by striking out “whenever it finds” and substituting “when the Director finds”;

(C) in subsection (a)(2), by striking out the period and substituting a semicolon; and

(D) in subsections (b) and (c), by inserting “of this title” after “section 2021(a)”.

38 USC 3020.

(73) Section 3020(a) is amended by striking out “Post Office Department” and substituting “United States Postal Service”.

38 USC 3101.

(74) Section 3101(c) is amended by inserting “of this section” after “subsection (a)” and by striking out “(relating to seizure of property for collection of taxes)” and substituting “(26 U.S.C. 6331 et seq.)”.

38 USC 3103.

(75) Section 3103(e)(2)(B) is amended by striking out “within one year after the date of enactment of this paragraph”, “on or prior to the date of enactment of this paragraph”, and “such enactment date” and substituting “before October 9, 1978,” “before October 9, 1977,” and “October 8, 1977”, respectively.



## (76) Section 3112 is amended—

38 USC 3112.

(A) in subsections (a) and (b)(1), by inserting “(42 U.S.C. 401 et seq.)” after “title II of the Social Security Act” the first time it appears in each subsection;

(B) by inserting “(42 U.S.C. 415(i))” after “section 215(i) of such Act” wherever it appears;

(C) in subsection (b)(1), by striking out “subsection (h), of section 415 of such title” and substituting “subsection (g), of section 415 of this title”; and

(D) in subsection (c)(1), by inserting “(42 U.S.C. 415(i)(2)(D))” after “section 215(i)(2)(D) of the Social Security Act”.

(77) Section 3202(d) is amended by striking out “the date of enactment of this sentence” and substituting “August 7, 1959,”. 38 USC 3202.

(78) Section 3504(a) is amended by striking out “be guilty” and substituting “to be guilty”. 38 USC 3504.

(79)(A) Section 3505(a) is amended by striking out “the date of enactment of this section” and substituting “September 1, 1959,”. 38 USC 3505.

(B) Section 3505(b) is amended to read as follows:

“(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed in—

“(1) sections 894, 904, and 906 of title 10 (articles 94, 104, and 106 of the Uniform Code of Military Justice);

“(2) sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18;

“(3) sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2272, 2273, 2274, 2275, and 2276); and

“(4) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783).”.

18 USC 2151 et seq.

(80)(A) Section 4101(c)(2) is amended—

38 USC 4101.

(i) by striking out “Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare” and substituting “Health and Human Services and the Secretary of Education”; and

(ii) by striking out “section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities)” and substituting “section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers)”.

(B) Section 4101(d) is repealed.

(81) Section 4105(c) is amended by striking out “the effective date of this subsection” and substituting “January 1, 1978,”. 38 USC 4105.

(82) Section 4107(e) is amended by striking out “per centum” wherever it appears and substituting “percent”. 38 USC 4107.

- 38 USC 4108. (83) Section 4108(a)(6) is amended by striking out “the effective date of this subsection” wherever it appears and substituting “September 1, 1973”.
- 38 USC 4109. (84) Section 4109(a) is amended by inserting “subchapter III of” before “chapter”.
- 38 USC 4114. (85) Section 4114 is amended—  
 (A) in subsection (b)(3)(C), by inserting “(26 U.S.C. 3101 et seq.)” after “the Internal Revenue Code of 1954”; and  
 (B) in subsection (f), by striking out “the effective date of this subsection” and substituting “January 1, 1978,”.
- 38 USC 4118. (86)(A) The last sentence of section 4118(a)(3) is amended to read as follows: “Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations.”.  
 (B) Section 4118(e)(4) is amended—  
 (i) in clause (A), by striking out “on or before the effective date of this section”, “the date of the enactment of the Veterans’ Administration Physician and Dentist Pay Comparability Act of 1975”, and “the effective date of this section” and substituting “before October 13, 1975,” “October 22, 1975,” and “October 12, 1975”, respectively;  
 (ii) in clause (B), by striking out “the effective date of this section” and “the date of the enactment of the Veterans’ Administration Physician and Dentist Pay Comparability Act of 1975” and substituting “October 12, 1975,” and “October 22, 1975,” respectively; and  
 (iii) in clause (C), by striking out “the date of the enactment of the Veterans’ Administration Physician and Dentist Pay Comparability Act of 1975” and substituting “October 22, 1975”.
- 38 USC 4134. (87) Section 4134(a) is amended—  
 (A) by striking out “Health, Education, and Welfare” and substituting “Health and Human Services”; and  
 (B) by striking out “the Director of the Office of Drug Abuse Policy (or any other successor authority)” and substituting “the President (or the delegate of the President)”.
- 38 USC 4202. (88) Section 4202 is amended—  
 (A) in clause (5), by striking out “without regard to” and all that follows through the semicolon and substituting “without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5. Those employees are subject to the provisions of title 5 relating to a preference eligible described in section 2108(3) of title 5, subchapter I of chapter 81 of title 5, and subchapter III of chapter 83 of title 5;”; and  
 (B) in clause (11), by striking out “sections 521 and 543 of title 5” and substituting “section 1 of the Act of January 31, 1925 (7 U.S.C. 2217), and section 1 (1st proviso under heading ‘OFFICE OF THE SECRETARY’) of the Act of May 11, 1922 (7 U.S.C. 2240)”.
- 5 USC 5101 et seq., 5331.  
 5 USC 8101, 8331. (89) Section 4207 is amended by striking out “the Accounting and Auditing Act of 1950” and substituting “section 3523 of title 31”.
- 38 USC 4207. (90) Section 4208 is amended by striking out “herein provided” and substituting “provided in this chapter”.
- 38 USC 4208.

(91)(A) Section 5022(a) is amended by striking out “section 321” and all that follows through “(40 U.S.C. 303b)” and substituting “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)”.

38 USC 5022.

(B) Section 5022(c) is amended by inserting “(41 U.S.C. 254)” after “section 304 of that Act”.

(92) Sections 5035(a)(1), (4), (b)(2), (d)(1), and 5036 are amended by striking out “per centum” wherever it appears and substituting “percent”.

38 USC 5035, 5036.

(93) Section 5056 is amended by inserting “(42 U.S.C. 300t et seq.)” after “part F of title XVI of the Public Health Service Act”.

38 USC 5056.

(94)(A) Section 5070(a) is amended—

38 USC 5070.

(i) by striking out “Health, Education, and Welfare” and substituting “Health and Human Services”; and

(ii) by striking out “section 309 and” and inserting “(42 U.S.C. 292 et seq.)” after “the Public Health Service Act”.

(B) Section 5070(e) is amended—

(i) in the first sentence, by striking out “including equipment therein” and substituting “(including equipment therein)”; and

(ii) in the last sentence, by striking out “section 321” and all that follows through “(40 U.S.C. 303b)” and substituting “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)”.

(95)(A) The following sections are amended by striking out “Health, Education, and Welfare” wherever it appears and substituting “Health and Human Services”: 101(25)(E), 422 (a) and (b), 612(j), 616, 774, 2014(c), 3001(a), 3005, 5053(d)(1), and 5056.

38 USC 101, 422, 612, 616, 774, 2014, 3001, 3005, 5053, 5056.

(B) Section 5073(b)(1)(D) is amended by striking out “Commissioner of Education of the Department of Health, Education, and Welfare” and substituting “Secretary of Education”.

38 USC 5073.

#### LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 5. (a) Sections 1–4 of this Act restate, without substantive change, laws enacted before December 2, 1981, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after December 1, 1981, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

10 USC 101 note.

(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its

Public Law 97-296  
97th Congress

An Act

Oct. 12, 1982  
[H.R. 5154]

To amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.

Lanham  
Trademark Act,  
amendment.

15 USC 1121a.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051-1127; commonly known as the Lanham Trademark Act), is amended by adding after section 39 the following new section 39a:

“SEC. 39a. No State or other jurisdiction of the United States or any political subdivision or any agency thereof may require alteration of a registered mark, or require that additional trademarks, servicemarks, trade names, or corporate names that may be associated with or incorporated into the registered mark be displayed in the mark in a manner differing from the display of such additional trademarks, servicemarks, trade names, or corporate names contemplated by the registered mark as exhibited in the certificate of registration issued by the United States Patent and Trademark Office.”.

Approved October 12, 1982.

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LEGISLATIVE HISTORY—H.R. 5154:

HOUSE REPORT No. 97-778 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 20, considered and passed House.  
Sept. 29, considered and passed Senate.

Public Law 97-297  
97th Congress

An Act

To amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes.

Oct. 12, 1982  
[H.R. 6168]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 41 of title 18, United States Code, is amended by adding at the end the following new section:

Threats against former Presidents and certain other persons, criminal penalty.  
18 USC 879.

**“§ 879. Threats against former Presidents and certain other persons protected by the Secret Service**

“(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon—

“(1) a former President or a member of the immediate family of a former President;

“(2) a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect; or

“(3) a major candidate for the office of President or Vice President, or the spouse of such candidate;

who is protected by the Secret Service as provided by law, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

“(b) As used in this section—

Definitions.

“(1) the term ‘immediate family’ means—

“(A) with respect to subsection (a)(1) of this section, the wife of a former President during his lifetime, the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age; and

“(B) with respect to subsection (a)(2) of this section, a person to whom the President, President-elect, Vice President, or Vice President-elect—

“(i) is related by blood, marriage, or adoption; or

“(ii) stands in loco parentis;

“(2) the term ‘major candidate for the office of President or Vice President’ means a candidate referred to in the first section of the joint resolution entitled ‘Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates’, approved June 6, 1968 (18 U.S.C. 3056 note); and

“(3) the terms ‘President-elect’ and ‘Vice President-elect’ have the meanings given those terms in section 871(b) of this title.”.

18 USC 871.

(b) The table of sections for chapter 41 of title 18, United States Code, is amended by adding at the end the following new item:

“879. Threats against former Presidents and certain other persons protected by the Secret Service.”.

SEC. 2. Section 871(a) of title 18, United States Code, is amended by inserting after "to take the life of" the following: "; to kidnap,".

SEC. 3. The sentence beginning "Subject to the direction" in section 3056(a) of title 18, United States Code, is amended—

(1) by striking out "and 871 of this title" and inserting in lieu thereof "871, and 879 of this title"; and

(2) by striking out ", joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221" and inserting in lieu thereof "and Federal land bank associations are concerned, of sections 213, 216".

SEC. 4. (a) Section 1013 of title 18, United States Code, is amended by striking out ", or by any joint-stock land bank or banks".

(b) Section 1014 of such title is amended by striking out "a joint-stock land bank,".

(c) Section 1907 of such title is amended by striking out ", Federal land bank, or joint-stock land bank" and inserting in lieu thereof "or Federal land bank".

Approved October 12, 1982.

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**LEGISLATIVE HISTORY—H.R. 6168:**

HOUSE REPORT No. 97-725 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 16, considered and passed House.

Sept. 28, considered and passed Senate.

Public Law 97-298  
97th Congress

## An Act

To amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

Oct. 12, 1982

[H.R. 6454]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Arson Act of 1982".*

Anti-Arson Act  
of 1982.  
18 USC 841 note.

## OFFENSES INVOLVING FIRE

SEC. 2. (a) Subsections (e) and (f) of section 844 of title 18, United States Code, are each amended by inserting "fire or" after "by means of" each place it appears.

(b) Section 844(h)(1) of title 18, United States Code, is amended by inserting "fire or" after "uses".

(c) Section 844(i) of title 18, United States Code, is amended by inserting "fire or" after "by means of".

SEC. 3. The Director of the Federal Bureau of Investigation is authorized and directed to classify the offense of arson as a Part I crime in its Uniform Crime Reports. In addition, the Director of the Federal Bureau of Investigation is authorized and directed to develop and prepare a special statistical report in cooperation with the National Fire Data Center for the crime of arson, and shall make public the results of that report.

Special  
statistical  
report.

Approved October 12, 1982.

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LEGISLATIVE HISTORY—H.R. 6454:

HOUSE REPORT No. 97-678 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 2, considered and passed House.

Sept. 22, considered and passed Senate, amended.

Sept. 28, House agreed to Senate amendment.

Public Law 97-299  
97th Congress

Joint Resolution

Oct. 12, 1982  
[H.J. Res. 207]

To require the Secretary of the Interior to place a plaque at the United States Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial.

Whereas the photograph of the raising of the American flag by Sergeant Michael Strank, Corporal Harland H. Block, Privates First Class Franklin R. Sousley, Rene A. Gagnon, and Ira Hayes, and Pharmacist's Mate Second Class John H. Bradley, during the battle for control of Mount Suribachi, Iwo Jima, on February 23, 1945, has long been recognized as a most distinguished depiction of the courage and spirit of the United States armed services during the Second World War;

Whereas such photograph served as the model for the United States Marine Corps War Memorial, also known as the Iwo Jima Statue, in Arlington, Virginia; and

Whereas Joseph Rosenthal, the man who took such photograph, has represented the finest tradition of photographic journalism for the past fifty years: Now, therefore, be it

Plaque  
honoring Joseph  
Rosenthal at  
United States  
Marine Corps  
War Memorial.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior shall cause to be inscribed upon the United States Marine Corps War Memorial, also known as the Iwo Jima Statue, in Arlington, Virginia, the name of Joseph Rosenthal of San Francisco, California, photographer of the raising of the American flag during the battle for control of Mount Suribachi, Iwo Jima, on February 23, 1945, whose photograph served as the model for the



**memorial, and the date of such photograph. The location and design of such inscription shall be approved by the Secretary of the Interior and by the Commission of Fine Arts, in consultation with appropriate representatives of the original donors of the memorial. The Secretary of the Interior is authorized to accept donated funds for carrying out the purposes of this Act, and the United States shall be put to no expense in the placement of such inscription.**

Location and design.

Donated funds.

Approved October 12, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 207:**

HOUSE REPORT No. 97-206 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-559 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Aug. 4, considered and passed House.

Vol. 128 (1982): Sept. 29, considered and passed Senate.

Public Law 97-300  
97th Congress

An Act

Oct. 13, 1982

[S. 2036]

To provide for a job training program and for other purposes.

Job Training  
Partnership Act.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

SHORT TITLE; TABLE OF CONTENTS

29 USC 1501  
note.

**SECTION 1.** This Act may be cited as the "Job Training Partnership Act".

TABLE OF CONTENTS

- Sec. 1. Short title; table of contents.
- Sec. 2. Statement of purpose.
- Sec. 3. Authorization of appropriations.
- Sec. 4. Definitions.

**TITLE I—JOB TRAINING PARTNERSHIP**

**PART A—SERVICE DELIVERY SYSTEM**

- Sec. 101. Establishment of service delivery areas.
- Sec. 102. Establishment of private industry council.
- Sec. 103. Functions of private industry council.
- Sec. 104. Job training plan.
- Sec. 105. Review and approval of plan.
- Sec. 106. Performance standards.
- Sec. 107. Selection of service providers.
- Sec. 108. Limitation on certain costs.

**PART B—ADDITIONAL STATE RESPONSIBILITIES**

- Sec. 121. Governor's coordination and special services plan.
- Sec. 122. State job training coordinating council.
- Sec. 123. State education coordination and grants.
- Sec. 124. Training programs for older individuals.
- Sec. 125. State labor market information programs.
- Sec. 126. Authority of State legislature.
- Sec. 127. Interstate agreements.

**PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM**

- Sec. 141. General program requirements.
- Sec. 142. Benefits.
- Sec. 143. Labor standards.
- Sec. 144. Grievance procedure.
- Sec. 145. Prohibition against Federal control of education.

**PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS**

- Sec. 161. Program year.
- Sec. 162. Prompt allocation of funds.
- Sec. 163. Monitoring.
- Sec. 164. Fiscal controls; sanctions.
- Sec. 165. Reports, recordkeeping, and investigations.
- Sec. 166. Administrative adjudication.
- Sec. 167. Nondiscrimination.
- Sec. 168. Judicial review.
- Sec. 169. Administrative provisions.
- Sec. 170. Utilization of services and facilities.
- Sec. 171. Obligational authority.

**PART E—MISCELLANEOUS PROVISIONS**

- Sec. 181. Transition.
- Sec. 182. Criminal provisions.
- Sec. 183. Reference.
- Sec. 184. Repealers.

**TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED****PART A—ADULT AND YOUTH PROGRAMS**

- Sec. 201. Allotment.
- Sec. 202. Within State allocation.
- Sec. 203. Eligibility for services.
- Sec. 204. Use of funds.
- Sec. 205. Exemplary youth programs.

**PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS**

- Sec. 251. Authorization of appropriations; allotment and allocation.
- Sec. 252. Use of funds.
- Sec. 253. Limitations.
- Sec. 254. Applicable provisions.

**TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS**

- Sec. 301. Allocation of funds.
- Sec. 302. Identification of dislocated workers.
- Sec. 303. Authorized activities.
- Sec. 304. Matching requirement.
- Sec. 305. Program review.
- Sec. 306. Consultation with labor organizations.
- Sec. 307. Limitations.
- Sec. 308. State plans; coordination with other programs.

**TITLE IV—FEDERALLY ADMINISTERED PROGRAMS****PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS**

- Sec. 401. Native American programs.
- Sec. 402. Migrant and seasonal farmworker programs.

**PART B—JOB CORPS**

- Sec. 421. Statement of purpose.
- Sec. 422. Establishment of the Job Corps.
- Sec. 423. Individuals eligible for the Job Corps.
- Sec. 424. Screening and selection of applicants: general provisions.
- Sec. 425. Screening and selection: special limitations.
- Sec. 426. Enrollment and assignment.
- Sec. 427. Job Corps centers.
- Sec. 428. Program activities.
- Sec. 429. Allowances and support.
- Sec. 430. Standards of conduct.
- Sec. 431. Community participation.
- Sec. 432. Counseling and job placement.
- Sec. 433. Experimental and developmental projects and coordination with other programs.
- Sec. 434. Advisory boards and committees.
- Sec. 435. Participation of the States.
- Sec. 436. Application of provisions of Federal law.
- Sec. 437. Special provisions.
- Sec. 438. General provisions.
- Sec. 439. Donations.

**PART C—VETERANS' EMPLOYMENT PROGRAMS**

- Sec. 441. Programs authorized.

**PART D—NATIONAL ACTIVITIES**

- Sec. 451. Multistate programs.
- Sec. 452. Research and demonstration.
- Sec. 453. Pilot projects.
- Sec. 454. Evaluation.

Sec. 455. Training and technical assistance.

**PART E—LABOR MARKET INFORMATION**

Sec. 461. Labor market information; availability of funds.

Sec. 462. Cooperative labor market information program.

Sec. 463. Special Federal responsibilities.

Sec. 464. National Occupational Information Coordinating Committee.

Sec. 465. Job bank program.

**PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY**

Sec. 471. Statement of purpose.

Sec. 472. Commission established.

Sec. 473. Functions of the Commission.

Sec. 474. Administrative provisions.

Sec. 475. Reports.

**PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS**

Sec. 481. Affirmative action.

**TITLE V—MISCELLANEOUS PROVISIONS**

Sec. 501. Amendments to the Wagner-Peyser Act.

Sec. 502. Amendments to part C of title IV of the Social Security Act.

Sec. 503. Earnings disregard.

Sec. 504. Enforcement of Military Selective Service Act.

**STATEMENT OF PURPOSE**

29 USC 1501.

SEC. 2. It is the purpose of this Act to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment.

**AUTHORIZATION OF APPROPRIATIONS**

29 USC 1502.  
*Post*, pp. 1358,  
1368.

SEC. 3. (a)(1) There are authorized to be appropriated to carry out part A of title II and title IV (other than part B of such title) such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(2) From the amount appropriated pursuant to paragraph (1) for any fiscal year, an amount equal to not more than 7 percent of the total amount appropriated pursuant to this section shall be available to carry out parts A, C, D, E, F, and G of title IV.

*Post*, pp. 1368,  
1380, 1381, 1383,  
1387, 1390.

(3) Of the amount so reserved under paragraph (2)—

(A) 5 percent shall be available for part C of title IV, and

(B) \$2,000,000 shall be available for part F of title IV.

*Post*, p. 1364.

(b) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

*Post*, p. 1364.

(c) There are authorized to be appropriated to carry out title III such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(d) There are authorized to be appropriated \$618,000,000 for fiscal year 1983, and such sums as may be necessary for each succeeding fiscal year, to carry out part B of title IV of this Act.

*Post*, p. 1347.

(e) The authorizations of appropriations contained in this section are subject to the program year provisions of section 161.

## DEFINITIONS

SEC. 4. For the purposes of this Act, the following definitions apply: 29 USC 1503.

(1) The term "academic credit" means credit for education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law and regulation and the requirements of an accredited educational agency or institution in a State.

(2) The term "administrative entity" means the entity designated to administer a job training plan under section 103(b)(1)(B).

(3) The term "area of substantial unemployment" means any area of sufficient size and scope to sustain a program under part A of title II of this Act and which has an average rate of unemployment of at least 6.5 percent for the most recent twelve months as determined by the Secretary. Determinations of areas of substantial unemployment shall be made once each fiscal year.

(4) The term "chief elected official" includes—

(A) in the case of a State, the Governor;

(B) in the District of Columbia, the mayor; and

(C) in the case of a service delivery area designated under section 101(a)(4)(A)(iii), the governing body.

(5) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

29 USC 706.

(6) Except as otherwise provided therein, the term "council" means the private industry council established under section 102.

(7) The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(8) The term "economically disadvantaged" means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments)

which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is receiving food stamps pursuant to the Food Stamp Act of 1977; (D) is a foster child on behalf of whom State or local government payments are made; or (E) in cases permitted by regulations of the Secretary, is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements.

(9) The term "Governor" means the chief executive of any State.

(10) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(11) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

20 USC 1141.

(12) The term "institution of higher education" means any institution of higher education as that term is defined in section 1201(a) of the Higher Education Act of 1965.

(13) The term "labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

20 USC 2461.

(14) The term "local educational agency" means such an agency as defined in section 195(10) of the Vocational Education Act of 1963.

(15) The term "low-income level" means \$7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(16) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

(17) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

20 USC 1088.

(18) The term "postsecondary institution" means an institution of higher education as that term is defined in section 481(a)(1) of the Higher Education Act of 1965.

(19) The term "private sector" means, for purposes of the State job training councils and private industry councils, persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers, such as health and educational institutions or other

executives of such employers who have substantial management or policy responsibility.

(20) The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(21) The term “Secretary” means the Secretary of Labor.

(22) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(23) The term “State educational agency” means such an agency as defined in section 195(11) of the Vocational Education Act of 1963.

20 USC 2461.

(24) The term “supportive services” means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

(25) The term “unemployed individuals” means individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(26) The term “unit of general local government” means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(27)(A) The term “veteran” means an individual who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(B) The term “disabled veteran” means (i) a veteran who is entitled to compensation under laws administered by the Veterans’ Administration, or (ii) an individual who was discharged or released from active duty because of service-connected disability.

(28) The term “vocational education” has the meaning provided in section 195(1) of the Vocational Education Act of 1963.

## TITLE I—JOB TRAINING PARTNERSHIP

### PART A—SERVICE DELIVERY SYSTEM

#### ESTABLISHMENT OF SERVICE DELIVERY AREAS

SEC. 101. (a)(1) The Governor shall, after receiving the proposal of the State job training coordinating council, publish a proposed designation of service delivery areas for the State each of which—

29 USC 1511.

(A) is comprised of the State or one or more units of general local government;

(B) will promote effective delivery of job training services; and

(C)(i) is consistent with labor market areas or standard metropolitan statistical areas, but this clause shall not be construed to require designation of an entire labor market area; or

(ii) is consistent with areas in which related services are provided under other State or Federal programs.

(2) The Council shall include in its proposal a written explanation of the reasons for designating each service delivery area.

(3) Units of general local government (and combinations thereof), business organizations, and other affected persons or organizations shall be given an opportunity to comment on the proposed designation of service delivery areas and to request revisions thereof.

Request.

(4)(A) The Governor shall approve any request to be a service delivery area from—

(i) any unit of general local government with a population of 200,000 or more;

(ii) any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of a labor market area; and

(iii) any concentrated employment program grantee for a rural area which served as a prime sponsor under the Comprehensive Employment and Training Act.

Post, p. 1357.

(B) The Governor may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

(C) If the Governor denies a request submitted under subparagraph (A) and the entity making such request alleges that the decision of the Governor is contrary to the provisions of this section, such entity may appeal the decision to the Secretary, who shall make a final decision within 30 days after such appeal is received.

(b) The Governor shall make a final designation of service delivery areas within the State. Before making a final designation of service delivery areas for the State, the Governor shall review the comments submitted under subsection (a)(3) and requests submitted under subsection (a)(4).

(c)(1) In accordance with subsection (a), the Governor may redesignate service delivery areas no more frequently than every two years. Such redesignations shall be made not later than 4 months before the beginning of a program year.

(2) Subject to paragraph (1), the Governor shall make such a redesignation if a petition to do so is filed by an entity specified in subsection (a)(4)(A).

(3) The provisions of this subsection are subject to section 105(c).

#### ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL

29 USC 1512.

SEC. 102. (a) There shall be a private industry council for every service delivery area established under section 101, to be selected in accordance with this subsection. Each council shall consist of—

(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility; and



(2) representatives of educational agencies (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and the public employment service.

(b) The Chairman of the council shall be selected from among members of the council who are representatives of the private sector.

Chairman.

(c)(1)(A) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the service delivery area. The number of such nominations shall be at least 150 percent of the number of individuals to be appointed under subsection (a)(1). Such nominations, and the individuals selected from such nominations, shall reasonably represent the industrial and demographic composition of the business community. Whenever possible, at least one-half of such business and industry representatives shall be representatives of small business, including minority business.

Private sector representatives.

(B) For the purpose of this paragraph, the term—

Definitions.

(i) “general purpose business organizations” means organizations which admit to membership any for-profit business operating within the service delivery area; and

(ii) “small business” means private for-profit enterprises employing 500 or fewer employees.

(2) Education representatives on the council shall be selected from among individuals nominated by local educational agencies, vocational education institutions, institutions of higher education, or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such schools, within the service delivery area.

Education representatives.

(3) The remaining members of the council shall be selected from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils.

(d)(1) In any case in which there is only one unit of general local government with experience in administering job training programs within the service delivery area, the chief elected official of that unit shall appoint members to the council from the individuals nominated or recommended under subsection (c).

Chief elected official.

(2) In any case in which there are two or more such units of general local government in the service delivery area, the chief elected officials of such units shall appoint members to the council from the individuals so nominated or recommended in accordance with an agreement entered into by such units of general local government. In the absence of such an agreement, the appointments shall be made by the Governor from the individuals so nominated or recommended.

(e) The initial number of members of the council shall be determined—

(1) by the chief elected official in the case described in subsection (d)(1),

(2) by the chief elected officials in accordance with the agreement in the case described in subsection (d)(2), or

(3) by the Governor in the absence of such agreement.

Thereafter, the number of members of the council shall be determined by the council.

Term.

(f) Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(g) The Governor shall certify a private industry council if the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. When the Governor certifies the council, it shall be convened within 30 days by the official or officials who made the appointments to such council under subsection (d).

(h) In any case in which the service delivery area is a State, the State job training coordinating council or a portion of such council may be reconstituted to meet the requirements of this section.

#### FUNCTIONS OF PRIVATE INDUSTRY COUNCIL

29 USC 1513.

SEC. 103. (a) It shall be the responsibility of the private industry council to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area.

(b)(1) The council, in accordance with an agreement or agreements with the appropriate chief elected official or officials specified in subsection (c), shall—

(A) determine procedures for the development of the job training plan, which may provide for the preparation of all or any part of the plan (i) by the council, (ii) by any unit of general local government in the service delivery area, or by an agency thereof, or (iii) by such other methods or institutions as may be provided in such agreement; and

(B) select as a grant recipient and entity to administer the job training plan (which may be separate entities), (i) the council, (ii) a unit of general local government in its service delivery area, or an agency thereof, (iii) a nonprofit private organization or corporation, or (iv) any other agreed upon entity or entities.

(2) The council is authorized to provide oversight of the programs conducted under the job training plan in accordance with procedures established by the council. In order to carry out this paragraph, the council shall have access to such information concerning the operations of such programs as is necessary.

(c) For purposes of subsection (b), the appropriate chief elected official or officials means—

(1) the chief elected official of the sole unit of general local government in the service delivery area,

(2) the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative, or

(3) in the case of a service delivery area designated under section 104(a)(4)(A)(iii), the representative of the chief elected official for such area (as defined in section 4(4)(C)).

(d) No job training plan prepared under section 104 may be submitted to the Governor unless (1) the plan has been approved by the council and by the appropriate chief elected official or officials

specified in subsection (c), and (2) the plan is submitted jointly by the council and such official or officials.

(e) In order to carry out its functions under this Act, the council— Budget.

(1) shall, in accordance with the job training plan, prepare and approve a budget for itself, and

(2) may hire staff, incorporate, and solicit and accept contributions and grant funds (from other public and private sources).

(f) As used in this section, the term "oversight" means reviewing, monitoring, and evaluating. "Oversight."

#### JOB TRAINING PLAN

SEC. 104. (a) No funds appropriated for any fiscal year may be provided to any service delivery area under this Act except pursuant to a job training plan for two program years which is prepared in accordance with section 103 and which meets the requirements of this section. 29 USC 1514.

(b) Each job training plan shall contain—

(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

(2) a description of the services to be provided, including the estimated duration of service and the estimated training cost per participant;

(3) procedures for identifying and selecting participants and for eligibility determination and verification;

(4) performance goals established in accordance with standards prescribed under section 106;

(5) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

(6) the budget for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

(7) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

(8) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

(A) assessments of needs and problems in the labor market that form the basis for program planning;

(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

(9) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursement of, and accounting for, funds received under this title; and

(10) procedures for the preparation and submission of an annual report to the Governor which shall include— Report.

(A) a description of activities conducted during the program year;

(B) characteristics of participants; and

(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

(c) If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105.

#### REVIEW AND APPROVAL OF PLAN

29 USC 1515.

SEC. 105. (a)(1) Not less than 120 days before the beginning of the first of the two program years covered by the job training plan—

(A) the proposed plan or summary thereof shall be published; and

(B) such plan shall be made available for review and comment to—

(i) each house of the State legislature for appropriate referral;

(ii) appropriate local educational and other public agencies in the service delivery area; and

(iii) labor organizations in the area which represent employees having the skills in which training is proposed; and

(C) such plan shall be reasonably available to the general public through such means as public hearings and local news facilities.

Publication.  
Submittal to  
Governor.

(2) The final plan, or a summary thereof, shall be published not later than 80 days before the first of the two program years and shall be submitted to the Governor in accordance with section 103(d)(2). Any modification shall be published not later than 80 days before it is effective and shall be submitted to the Governor in accordance with such section.

(b)(1) The Governor shall approve the job training plan or modification thereof unless he finds that—

(A) corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;

(B) the entity proposed to administer the program does not have the capacity to administer the funds;

(C) there are inadequate safeguards for the protection of funds received;

(D) the plan (or modification) does not comply with a particular provision or provisions of this Act or of regulations of the Secretary under this Act; or

(E) the plan (or modification) does not comply with the criteria under section 121(b) for coordinating activities under this Act with related program activities.

(2) The Governor shall approve or disapprove a job training plan (or modification) within 30 days after the date that the plan (or modification) is submitted, except that if a petition is filed under paragraph (3) such period shall be extended to 45 days. Any disapproval by the Governor may be appealed to the Secretary, who shall

Appeal.

make a final decision of whether the Governor's disapproval complies with paragraph (1) of this subsection within 45 days after receipt of the appeal.

(3)(A) Interested parties may petition the Governor within 15 days of the date of submission for disapproval of the plan or modification thereof if—

Petition.

(i) the party can demonstrate that it represents a substantial client interest,

(ii) the party took appropriate steps to present its views and seek resolution of disputed issues prior to submission of the plan to the Governor, and

(iii) the request for disapproval is based on a violation of statutory requirements.

(B) If the Governor approves the plan (or modification), the Governor shall notify the petitioner in writing of such decision and the reasons therefor.

Petitioner,  
notification.

(c)(1) If a private industry council and the appropriate chief elected official or officials fail to reach the agreement required under section 103 (b) or (d) and, as a consequence, funds for a service delivery area may not be made available under section 104, then the Governor shall redesignate, without regard to sections 101 (a)(4) and (c)(1), the service delivery areas in the State to merge the affected area into one or more other service delivery areas, in order to promote the reaching of agreement.

Service delivery  
areas,  
redesignation.

(2) In any State in which service delivery areas are redesignated under paragraph (1), private industry councils shall, to the extent necessary for the redesignation, be reconstituted and job training plans modified as required to comply with sections 102 and 103. Services under an approved plan shall not be suspended while the council is reconstituted and the plan is modified.

(d) In any case in which the service delivery area is a State, the plan (or modification) shall be submitted to the Secretary for approval. For the purpose of this subsection, the Secretary shall have the same authority as the Governor has under this section.

Plan submittal.

#### PERFORMANCE STANDARDS

SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

29 USC 1516.

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased employment and earnings of participants and the reductions in welfare dependency.

(b)(1) The basic measure of performance for adult training programs under title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. In order to determine whether these basic measures are achieved, the Secretary shall prescribe standards on the basis of appropriate factors which may include (A) placement in unsubsidized employment, (B) retention in unsubsidized employment, (C) the increase in earnings, including hourly wages, and (D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.

Adult training  
programs.

Youth programs.

(2) In prescribing standards under this section the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (1), shall be (A) attainment of recognized employment competencies recognized by the private industry council, (B) elementary, secondary, and postsecondary school completion, or the equivalent thereof, and (C) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

(3) The standards shall include provisions governing—

(A) the base period prior to program participation that will be used;

(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

(C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

(4) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures.

*Post*, p. 1357.

(c) Within six months after the date of the enactment of this Act, the Secretary shall establish initial performance standards which are designed to contribute to the achievement of the performance goals set forth in subsection (b)(1), based upon data accumulated under the Comprehensive Employment and Training Act, from the National Commission for Employment Policy, and from other appropriate sources. In the development of the initial standards under this subsection, the Secretary shall relate gross program expenditures to the accomplishment of program goals set forth in subsection (b)(1).

(d)(1) The Secretary shall, not later than January 31, 1984, prescribe performance standards for the first program year under this Act to measure the results of the participation in the program to achieve the goals set forth in subsection (b)(1) based upon the initial standards established in subsection (c).

Report to  
Congress.

(2) The Secretary, not later than six months after the completion of the first two program years, shall prepare and submit a report to the Congress containing the performance standards established under paragraph (1) of this subsection, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(1), including the relative importance of each standard to the accomplishment of such goals.

(3) The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, and ex-offenders, taking into account their special circumstances.

Modification.

(4)(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years and such modifications shall not be retroactive.

Report to  
Congress.

(B) The Secretary shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications.

(e) Each Governor may prescribe, within parameters established by the Secretary, variations in the standards under this subsection based upon specific economic, geographic, and demographic factors in the State and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

Variations of standards.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

Development of standards.

(g) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

*Post*, p. 1364.

(h)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area.

Reorganization plan.

(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

Appeal.

#### SELECTION OF SERVICE PROVIDERS

SEC. 107. (a) The primary consideration in selecting agencies or organizations to deliver services within a service delivery area shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants. In complying with this subsection, proper consideration shall be given to community-based organizations as service providers.

29 USC 1517.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the service delivery area's performance goals.

Restrictions.

(c) Appropriate education agencies in the service delivery area shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater

Educational services.

potential to enhance the participants' continued occupational and career growth.

(d) The administrative entity shall not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the private industry council.

#### LIMITATION ON CERTAIN COSTS

29 USC 1518.

*Post*, p. 1358.

SEC. 108. (a) Not more than 15 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for the cost of administration. For purposes of this paragraph, costs of program support (such as counseling) which are directly related to the provision of education or training and such additional costs as may be attributable to the development of training described in section 204(28) shall not be counted as part of the cost of administration.

(b)(1) Not more than 30 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for administrative costs (as defined under subsection (a)) and costs specified in paragraph (2).

(2)(A) For purposes of paragraph (1), the costs specified in this paragraph are—

(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3);

(iii) supportive services; and

(iv) needs-based projects described in section 204(27).

(B) For purposes of paragraph (1), the costs specified in this paragraph do not include expenditures for tryout employment which meets the requirements of section 205(d)(3)(B).

(3) For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

(A) the work experience is of not more than 6 months' duration and is combined with a classroom or other training program;

(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

(c)(1) Notwithstanding subsection (b), expenditures may be made in excess of the limitation contained in such subsection if such expenditures are made in accordance with the requirements of this subsection.

(2) Expenditures may be made in excess of the limitation contained in subsection (b) in any service delivery area if—

(A) the private industry council for such area initiates a request for such excess costs; and

(B) excess costs are due to one or more of the following conditions in such area:

Work experience expenditure.



(i) an unemployment rate (in the service delivery area or that portion within which services resulting in excess costs are to be provided) which exceeds the national average unemployment rate by at least 3 percentage points, and the ratio of current private employment to population in such area or portion is less than the national average of such ratio;

(ii) the job training plan for such area proposes to serve a disproportionately high number of participants from groups requiring exceptional supportive service costs, such as handicapped individuals, offenders, and single heads of households with dependent children;

(iii) the cost of providing necessary child care exceeds one-half of the costs specified in paragraph (2) of subsection (b);

(iv) the costs of providing necessary transportation exceeds one-third of the costs specified in paragraph (2) of subsection (b); or

(v) a substantial portion of the participants in programs in the service delivery area are in training programs of 9 months' duration or more.

(3) Expenditures may be made in excess of the limitation contained in subsection (b) if the need for and the amount of the excess is stated in the job training plan (or modification thereof) for the service delivery area and such plan demonstrates that administrative costs comply with subsection (a) of this section.

(4) The provisions of this subsection shall not be available to the extent that supportive services provided under the job training plan duplicate services provided by any other public or private source that are available to participants without cost.

(5) The Governor shall not disapprove any plan (or modification thereof) on the basis of any statement of the need for and amount of excess costs in the job training plan if such plan or modification meets the requirements of this subsection.

(d) The provisions of this section do not apply to any service delivery area designated pursuant to section 101(a)(4)(A)(iii).

(e) This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

Plan  
disapproval.

## PART B—ADDITIONAL STATE RESPONSIBILITIES

### GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

SEC. 121. (a)(1) The Governor shall annually prepare a statement of goals and objectives for job training and placement programs within the State to assist in the preparation of the plans required under section 104 of this Act and section 8 of the Act of June 6, 1933 (known as the Wagner-Peyser Act).

Annual  
statement.  
29 USC 1531.

(2) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan for two program years to the Secretary describing the use of all resources provided to the State and its service delivery areas under this Act and evaluating the experience over the preceding two years.

29 USC 49g.

(b)(1) The plan shall establish criteria for coordinating activities under this Act (including title III) with programs and services provided by State and local education and training agencies (including vocational education agencies), public assistance agencies, the

Post, p. 1364.

employment service, rehabilitation agencies, postsecondary institutions, economic development agencies, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State. Such criteria shall not affect local discretion concerning the selection of eligible participants or service providers in accordance with the provisions of sections 107 and 203.

(2) The plan shall describe the projected use of resources, including oversight and support activities, priorities and criteria for State incentive grants, and performance goals for State supported programs.

Report to  
Secretary.

(3) The Governor shall report to the Secretary the adjustments made in the performance standards and the factors that are used in making the adjustments.

Modification.

(4) If major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the State shall submit a modification to the Secretary describing these changes.

(c) Governor's coordination and special services activities may include—

(1) making available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(2) carrying out special model training and employment programs and related services (including programs receiving financial assistance from private sources);

(3) providing programs and related services for offenders and other individuals whom the Governor determines require special assistance;

(4) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(5) providing training opportunities in the conservation and efficient use of energy, and the development of solar energy sources as defined in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974;

42 USC 5552.

(6) industry-wide training;

Post, p. 1364.

(7) activities under title III of this Act;

(8) developing and providing to service delivery areas information on a State and local area basis regarding economic, industrial, and labor market conditions;

(9) providing preservice and inservice training for planning, management, and delivery staffs of administrative entities and private industry councils, as well as contractors for State supported programs; and

(10) providing statewide programs which provide for joint funding of activities under this Act with services and activities under other Federal, State, or local employment-related programs.

(d) A Governor's coordination and special services plan shall be approved by the Secretary unless the Secretary determines that the plan does not comply with specific provisions of this Act.

## STATE JOB TRAINING COORDINATING COUNCIL

SEC. 122. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State job training coordinating council (hereinafter in this section referred to as the "State council"). Funding for the council shall be provided pursuant to section 202(b)(4).

29 USC 1532.

(2) The State council shall be appointed by the Governor, who shall designate one nongovernmental member thereof to be chairperson. In making appointments to the State council, the Governor shall ensure that the membership of the State council reasonably represents the population of the State.

(3) The State council shall be composed as follows:

Membership.

(A) One-third of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate) in the State, including individuals who are representatives of business and industry on private industry councils in the State.

(B) Not less than 20 percent of the membership of the State council shall be representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State.

(C) Not less than 20 percent of the membership of the State council shall be representatives of the units or consortia of units of general local government in such State (including those which are administrative entities or grantees under this Act) which shall be nominated by the chief executive officers of the units or consortia of units of general local government; and

(D) Not less than 20 percent of the membership of the State council shall be representatives of the eligible population and of the general public, representatives of organized labor, representatives of community-based organizations, and representatives of local educational agencies (nominated by local educational agencies).

(4) The State council shall meet at such times and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

Meetings.

(5) The State council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this Act.

(6) In order to assure objective management and oversight, the State council shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provision of such programs and services.

(7) The plans and decisions of the State council shall be subject to approval by the Governor.

Approval.

20 USC 2305. (8) For purposes of section 105 of the Vocational Education Act of 1963, the State council shall be considered to be the same as either the State Manpower Services Council referred to in that section or the State Employment and Training Council authorized under the Comprehensive Employment and Training Act.

*Post*, p. 1357.

(b) The State council shall—

(1) recommend a Governor's coordination and special services plan;

(2) recommend to the Governor substate service delivery areas, plan resource allocations not subject to section 202(a), provide management guidance and review for all programs in the State, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the Governor's coordination and special services plan and recommend variations in performance standards;

(3) advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the Governor's coordination and special services plan for coordination of activities under this Act with other Federal, State, and local employment-related programs, including programs operated in designated enterprise zones;

(4) review the operation of programs conducted in each service delivery area, and the availability, responsiveness, and adequacy of State services, and make recommendations to the Governor, appropriate chief elected officials, and private industry councils, service providers, the State legislature, and the general public with respect to ways to improve the effectiveness of such programs or services;

(5) review and comment on the State plan developed for the State employment service agency;

Report.

(6) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist service delivery areas in carrying out the purposes of this Act;

(7)(A) identify, in coordination with the appropriate State agencies, the employment and training and vocational education needs throughout the State, and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, and other Federal, State, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs; and

Comments.

(B) comment at least once annually on the reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1963; and

20 USC 2305.

(8) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State legislature, the State agencies, and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

Transfer of functions.

(c) In addition to the functions described in subsection (b), the Governor may, to the extent permitted by applicable law, transfer functions which are related to functions under this Act to the council established under this section from any State coordinating committee for the work incentive program under title IV of the

Social Security Act or any advisory council established under the Wagner-Peyser Act.

42 USC 601.  
29 USC 49 note.

#### STATE EDUCATION COORDINATION AND GRANTS

SEC. 123. (a) The sums available for this section pursuant to section 202(b)(1) shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training—

29 USC 1533.

(1) to provide services for eligible participants through cooperative agreements between such State education agency or agencies, administrative entities in service delivery areas in the State, and (where appropriate) local educational agencies; and

(2) to facilitate coordination of education and training services for eligible participants through such cooperative agreements.

(b) The cooperative agreements described in subsection (a) shall provide for the contribution by the State agency or agencies, and the local educational agency (if any), of a total amount equal to the amount provided, pursuant to subsection (a)(1), in the grant subject to such agreement. Such matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(c)(1) Funds available under this section may be used to provide education and training, including vocational education services, and related services to participants under title II. Such services may include services for offenders and other individuals whom the Governor determines require special assistance.

Funds.

*Post*, p. 1358.

(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities described in clause (2) of subsection (a).

(B) At least 80 percent of the funds available under this section shall be used for clause (1) of subsection (a) for the Federal share of the cost of carrying out activities described in clause (1). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the cooperative agreements in subsection (b).

(3) Not less than 75 percent of the funds available for activities under clause (1) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

(d) If no cooperative agreement is reached on the use of funds under this section, the funds shall be available to the Governor for use in accordance with section 121.

#### TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 124. (a) From funds available for use under section 202(b)(2), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

29 USC 1534.

(b) In carrying out this section, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, and private business concerns.

Eligibility  
requirement.

(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

#### STATE LABOR MARKET INFORMATION PROGRAMS

29 USC 1535.

**SEC. 125.** (a) In order to be eligible for Federal financial assistance for State labor market information programs under this Act from funds made available under section 202(b)(4) and section 461(b), the Governor shall designate the State occupational information coordinating committee or other organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system, which shall—

(1) design a comprehensive cost-efficient labor market and occupational supply and demand information system which—

(A) is responsive to the economic demand and education and training supply support needs of the State and areas within the State, and

44 USC 3501.

(B) meets the Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau of Labor Statistics;

(2) standardize available Federal and State multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with a published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(3) assure, to the extent feasible, that—

(A) automated technology will be used by the State;

(B) administrative records have been designed to reduce paperwork; and

(C) multiple survey burdens on the employers of the State have been reduced;

(4) publish and disseminate labor market and occupational supply and demand information and individualized career information to State agencies, area public agencies, libraries, and private not-for-profit users, and individuals who are in the process of making career decision choices; and

(5) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

20 USC 2301  
note.

29 USC 49 note.

(b)(1) The analysis required under clause (2) of subsection (a) shall be used to contribute in carrying out the provisions of this Act, the Vocational Education Act of 1963, and the Act of June 6, 1933, known as the Wagner-Peyser Act.

(2) The assurance required by clause (3) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of recordkeeping of State and local agencies, including secondary and postsecondary educational institutions.

(3) If any Federal funds are used to carry out clause (5) of subsection (a), access to and information on the results will remain in the public domain.

(c) The Secretary through the National Occupational Information Coordinating Committee shall reimburse the States the costs of carrying out the provisions of this section but the aggregate reimbursements in any fiscal year shall not exceed the amount available under part E of title IV for this subsection.

Reimbursement.

*Post*, p. 1383.

Notice.

(d) No provision of this part or any other provision of Federal law shall be construed to prohibit any State from combining or consolidating Federal administrative management information reporting requirements relating to employment, productivity, or training, if notice is transmitted by the Governor to the head of each appropriate Federal and State agency responsible for the laws governing the Federal reporting requirements. The notice shall specify the intent to combine or consolidate such requirements. The head of each appropriate Federal agency shall approve the combination or consolidation unless, within sixty days after receiving the notice, the Federal agency can demonstrate that the combination or consolidation will not meet the essential purposes of the affected Federal law.

#### AUTHORITY OF STATE LEGISLATURE

SEC. 126. Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

29 USC 1536.

#### INTERSTATE AGREEMENTS

SEC. 127. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

29 USC 1537.

#### PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

##### GENERAL PROGRAM REQUIREMENTS

SEC. 141. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

29 USC 1551.

(a) Each job training plan shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities and shall make efforts to provide equitable services among substantial segments of the eligible population.

(b) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(c) No funds may be used to assist in relocating establishments, or parts thereof, from one area to another unless such relocation will not result in an increase in unemployment in the area of original location or in any other area.

Restrictions.

(d)(1) Training provided with funds made available under this Act shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs

may be given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

(2) Efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping in occupations traditional for the other sex.

(3) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the package if such packages are purchased competitively and include performance criteria.

*Post*, p. 1358.

Voting.

(e) Only eligible individuals residing in the service delivery area may be served by employment and training activities funded under title II, except that the job training plan may provide for limited exceptions to this requirement.

(f) No member of any council under this Act shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which would provide direct financial benefit to that member.

(g) Payments to employers for on-the-job training which shall not, during the period of such training, average more than 50 percent of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this title and in compensation for the costs associated with the lower productivity of such participants.

Restriction.

(h) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

Fund, allocation.

(i) Each administrative entity shall be responsible for the allocation of funds and the eligibility of those enrolled in its programs and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuses in the programs they are carrying out, and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Administrative entities may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, if such an arrangement is included in an approved job training plan.

Fee.

(j) No person or organization may charge an individual a fee for the placement or referral of such individual in or to a training program under this Act.

Restriction.

(k) No funds may be provided under this Act for any subsidized employment with any private for-profit employer unless the individual employed is a youth aged 16 to 21, inclusive, who is economically disadvantaged and the employment is provided in accordance with section 205(d)(3)(B).

(l) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

(m) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.



(n) The Secretary shall notify the Governor and the appropriate private industry councils and chief elected officials of, and consult with the Governor and such councils and officials concerning, any activity to be funded by the Secretary under this Act within the State or service delivery area; and the Governor shall notify the appropriate private industry councils and chief elected officials of, and consult with such concerning, any activity to be funded by the Governor under this Act within the service delivery area.

(o)(1) All education programs for youth supported with funds provided under title II shall be consistent with applicable State and local educational standards.

*Post*, p. 1358.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under such title shall be consistent with the requirements of applicable State and local law and regulation.

(p) No funds available under part B of this title or part A of title II may be used for public service employment.

#### BENEFITS

SEC. 142. (a) Except as otherwise provided in this Act, the following provisions shall apply to all activities financed under this Act:

Wages and earnings.

(1) A trainee shall receive no payments for training activities in which the trainee fails to participate without good cause.

29 USC 1552.

(2) Individuals in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

29 USC 206.

(3) Individuals employed in activities authorized under this Act shall be paid wages which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

(b) Allowances, earnings and payments to individuals participating in programs under this Act shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid, other than programs under the Social Security Act.

42 USC 1305.

#### LABOR STANDARDS

SEC. 143. (a)(1) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

29 USC 1553.

(2) Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.

Regulation.

29 USC 651 note.

Workers'  
compensation.

(3) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary.

(4) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

Restriction.

(5) No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

Job vacancy.

(3) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(c)(1) Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

Comments.

(2) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

(d) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1921 (40 U.S.C. 276a-276a-5), popularly known as the Davis-Bacon Act. The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The provisions of this subsection shall not apply to a bona fide trainee in a training program under this Act. The provisions of section 167(a)(4) shall apply to such trainees.

40 USC 276c.

#### GRIEVANCE PROCEDURE

29 USC 1554.

SEC. 144. (a) Each administrative entity, contractor, and grantee under this Act shall establish and maintain a grievance procedure

for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons. Hearings on any grievance shall be conducted within 30 days of filing of a grievance and decisions shall be made not later than 60 days after the filing of a grievance. Except for complaints alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence.

Hearings.

(b) Each recipient of financial assistance under this Act which is an employer of participants under this Act shall continue to operate or establish and maintain a grievance procedure relating to the terms and conditions of employment.

(c) Upon exhaustion of a recipient's grievance procedure without decision, or where the Secretary has reason to believe that the recipient is failing to comply with the requirements of this Act or the terms of the job training plan, the Secretary shall investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

Investigation.

#### PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 145. No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

29 USC 1555.

#### PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

##### PROGRAM YEAR

SEC. 161. (a) Beginning with fiscal year 1985 and thereafter, appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

29 USC 1571.

(b) Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the job training plan.

(c)(1) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

(2) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this subsection for the transition to program year funding.

Appropriation authorization.

##### PROMPT ALLOCATION OF FUNDS

SEC. 162. (a) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to economically disadvantaged and low-income persons shall be based on 1980 Census or later data.

29 USC 1572.

(b) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula under this Act, the Secretary

Publication in Federal Register.

shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

Funds,  
distribution.

(c) All funds required to be distributed by formula under this Act shall be allotted within 45 days after enactment of the appropriations, except that, if such funds are appropriated in advance as authorized by section 161, such funds shall be allotted not later than the March 31 preceding the program year for which such funds are to be available for obligation.

Publication in  
Federal  
Register.

(d) Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this Act, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) Funds shall be made available to the grant recipient for the service delivery area not later than 30 days after the date they are made available to the Governor or 7 days after the date the plan is approved, whichever is later.

#### MONITORING

29 USC 1573.

SEC. 163. (a) The Secretary is authorized to monitor all recipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

Investigations.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient is conducted or in which any of the records of the recipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

#### FISCAL CONTROLS; SANCTIONS

Audits.  
29 USC 1574.

SEC. 164. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the recipient under titles II and III. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

Post, pp. 1358,  
1364.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each recipient of funds under titles II and III of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients from all or part of the requirements of this

section, except that any such exemption shall not apply to the State administering agency, the entity which is the administrative entity for the job training plan for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor may issue a notice of intent to revoke approval of all or part of the plan affected. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until (A) the time for appeal has expired or (B) the Secretary has issued a decision.

Notice of intent.

(2) The Governor shall withdraw the notice if the appropriate corrective action has been taken.

(c)(1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 102 of this Act, any recipient of funds under this Act, or any subgrantee or contractor of such recipients.

Information,  
disclosure.

(d) Every recipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless he determines that such recipient should be held liable pursuant to subsection (e). No such action shall be taken except after notice and opportunity for a hearing have been given to the recipient.

Repayment of  
funds.

(e)(1) Each recipient shall be liable to repay such amounts, from funds other than funds received under this Act, upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

Notice and  
hearing.

(2) In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee of such recipient under this Act or the regulations under this Act, the

Violations.

Secretary shall first determine whether such recipient has adequately demonstrated that it has—

(A) established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;

(B) entered into a written contract with such subgrantee which established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the subgrantee contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations under this Act by such subgrantee.

(3) If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this Act and any applicable Federal or State law directly against any subgrantee for violation of this Act or the regulations under this Act.

(f) In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

(g) If the Secretary determines that any recipient under this Act has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation under or related to this Act, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this Act or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(h) The remedies under this section shall not be construed to be exclusive remedies.

#### REPORTS, RECORDKEEPING, AND INVESTIGATIONS

SEC. 165. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not

Financial  
assistance,  
termination.  
Notice and  
hearing.

Discrimination.

be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

Investigations.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(2) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request the compilation of any new information not readily available to such recipient.

(c) Each State, each administrative entity designated under title I, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

*Ante*, p. 1327.

(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

(2) prescribe and maintain a management information system, in accordance with guidelines prescribed by the Secretary, designed to facilitate the uniform compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

#### ADMINISTRATIVE ADJUDICATION

SEC. 166. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 167, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

29 USC 1576.

(b) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

Waiver.

(c) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

(d) The provisions of section 168 of this Act shall apply to any final action of the Secretary under this section.

## NONDISCRIMINATION

29 USC 1577.

42 USC 6101  
note.  
29 USC 794.  
20 USC 1681.  
42 USC 2000d.

SEC. 167. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(5) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), (4), or (5) of subsection (a), or with an applicable regulation prescribed to carry out such paragraphs, the Secretary shall notify such State or recipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as may be applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

42 USC 2000d,  
6101 note; 29  
USC 794.



## JUDICIAL REVIEW

SEC. 168. (a)(1) With respect to any final order by the Secretary under section 166 whereby the Secretary determines to award, to not award, or to only conditionally award, financial assistance, with respect to any final order of the Secretary under section 166 with respect to a corrective action or sanction imposed under section 164, and with respect to a denial of an appeal under section 101(4)(C) or 105(b)(2), any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds, by filing a review petition within 30 days of such final order.

29 USC 1578.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

## ADMINISTRATIVE PROVISIONS

SEC. 169. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

Rules and regulations.  
29 USC 1579.  
5 USC 500.

42 USC 4214.  
Publication in Federal Register.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

31 USC 665.

(c) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction,

Report to  
Congress.

repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

(e) The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually.

#### UTILIZATION OF SERVICES AND FACILITIES

29 USC 1580.

SEC. 170. The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

#### OBLIGATIONAL AUTHORITY

29 USC 1581.

SEC. 171. Notwithstanding any other provision of this Act, no authority to enter into contracts or financial assistance agreements under this Act shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

#### PART E—MISCELLANEOUS PROVISIONS

##### TRANSITION

29 USC 1591.

SEC. 181. (a) Except as otherwise provided in this section, the Secretary, from funds appropriated pursuant to this Act or pursuant to the Comprehensive Employment and Training Act, shall provide financial assistance under this Act in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the enactment of this Act) until September 30, 1983.

*Post*, p. 1357.

(b) The Commission established by title V of the Comprehensive Employment and Training Act shall continue to be authorized until September 30, 1983, and on such date the personnel, property, and records of such Commission shall be transferred to the Commission established by part F of title IV of this Act.

*Post*, p. 1357.

*Post*, p. 1387.

(c) Notwithstanding the provisions of subsection (a), Governors, prime sponsors, and other recipients of financial assistance under this Act, or under the Comprehensive Employment and Training Act, may expend funds received under this Act, or under the Comprehensive Employment and Training Act, prior to October 1, 1983, in order to—

*Post*, p. 1357.

(1) administer consolidated programs formed by the combining of programs previously administered under different titles, parts, and subparts of the Comprehensive Employment and Training Act;

(2) establish for new participants, in accordance with the eligibility criteria for title II of this Act, uniform eligibility criteria and other provisions relating to participation for programs consolidated pursuant to paragraph (1);

(3) conduct planning for any program or activity authorized under this Act; and

(4) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation, as of October 1, 1983, of programs under this Act.

(d) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act (as in effect on the date before the date of enactment of this Act), or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

Effective date.

(e) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984, under the Comprehensive Employment and Training Act.

(f)(1) By January 1, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of the State job training coordinating councils and the designation of service delivery areas.

Publications in  
Federal  
Register.

(2) By January 15, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of private industry councils.

(3) By March 15, 1983, the Secretary shall have published in the Federal Register final regulations governing all aspects of programs under title II of this Act not described in paragraphs (1) and (2) of this subsection.

(4) All other regulations for programs under this Act shall take effect no later than October 1, 1983.

Effective dates.

(5) Pursuant to section 169(a) of this Act the rules described in paragraphs (1), (2), and (3) of this section shall take effect thirty days after publication. In promulgating the rules described in paragraphs (1), (2), and (3), the Secretary shall be exempt from all requirements of law regarding rulemaking procedures except that such rules, prior to their publication in final form, shall be published in the Federal Register for comment for thirty days in the case of rules under paragraphs (2) and (3) and twenty days in the case of rules under paragraph (1).

Publications in  
Federal  
Register.

(6) The Secretary may subsequently modify rules issued pursuant to paragraphs (1), (2), and (3) but, with respect to the program period October 1, 1983, to June 30, 1984, such subsequent rules shall not affect the legitimacy of any State job training coordinating council

Effective rules.

or private industry council, or the composition of any service delivery area, established under the rules issued pursuant to paragraphs (1) or (2). In addition, with respect to the program period October 1, 1983, to June 30, 1984, no modifications of the rules published pursuant to paragraph (3) shall be effective unless they are published in final form by May 15, 1983.

*Post*, p. 1357.

(7) Upon the certification of any private industry council under section 102(g) the Secretary, from discretionary funds appropriated under this Act or Comprehensive Employment Training Act, for fiscal year 1983, may provide up to \$80,000 to each such council to assist it in performing its functions under section 103.

(g) Notwithstanding any other provision of law, any real or nonexpendable personal property, which was acquired on or before September 30, 1983, by prime sponsors (including by their contractors or subrecipients) with funds under the Comprehensive Employment and Training Act or under this Act, and with respect to which the Secretary reserved the right to take title, shall be transferred, as of October 1, 1983, from such prime sponsors to the custody of the entity which is administering programs under title II of this Act in the geographic area in which such property is located. Such transfer shall be subject to the Secretary's rights in such property, which shall continue unchanged.

(h) Funds for fiscal year 1982 allocated to areas served by prime sponsors or to other recipients under the Comprehensive Employment and Training Act, which were not obligated by the prime sponsor or other recipient prior to the end of such fiscal year, shall remain available for obligation by the prime sponsor or other recipient during fiscal year 1983. No reduction shall be made in the allocation for any area served by such a prime sponsor from appropriations to carry out this Act for fiscal year 1983 on account of the carryover of such funds from fiscal year 1982 to fiscal year 1983.

Effective date.

(i) The amendments made by sections 501 and 502 shall be effective October 1, 1983, but, the Secretary is authorized to use funds appropriated for fiscal year 1983 to plan for the orderly implementation of such amendments.

(j)(1) In order to facilitate the development of a service delivery area's job training plan for the program period October 1, 1983, to June 30, 1984, the various time limits contained in this Act which pertain to the planning process shall not be applicable, except that the job training plan must be submitted to the Governor by August 31, 1983. This provision shall apply only to the time limits and shall not apply to any of the required planning procedures, or to the required chronological order of such procedures except that the job training plan and budget need only be for the October 1, 1983 to June 30, 1984 program period.

(2) In order to facilitate planning for the program period October 1, 1983, to June 30, 1984, the local agreement or agreements between the private industry council and the appropriate chief elected official or officials may provide for interim procedures applicable only to that program. Such interim agreements may also, notwithstanding the provisions of section 107, authorize service deliverers under the Comprehensive Employment and Training Act or under this Act during fiscal year 1983 to continue as service deliverers under the program as established by this Act for such period.

*Post*, p. 1357.

(3) The performance standards described in section 106 shall apply to service delivery areas for the program period October 1, 1983, to June 30, 1984. No service delivery area, however, shall suffer a

penalty for not meeting such standards during that initial program period.

(k) All participants who are in programs funded under this Act, or under the Comprehensive Employment and Training Act, on September 30, 1983, shall be eligible to continue to participate in such programs, provided such programs have been approved for funding under the service delivery area's newly effective job training plan.

*Infra.*

#### CRIMINAL PROVISIONS

SEC. 182. Section 665 of title 18, United States Code, is amended to read as follows:

**“THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS:  
IMPROPER INDUCEMENT: OBSTRUCTION OF INVESTIGATIONS**

“SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Comprehensive Employment and Training Act or the Job Training Partnership Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a financial assistance agreement or contract pursuant to such Act shall be fined not more than \$10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, such person shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

Penalty.

29 USC 801 note.  
*Ante*, p. 1322.

“(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Comprehensive Employment and Training Act or the Job Training Partnership Act induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

Penalty.

“(c) Any person whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the Job Training Partnership Act, or the regulations thereunder, shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.”

Penalty.

#### REFERENCE

SEC. 183. Effective on the date of enactment of this Act, all references in any other statute other than this Act, and other than in section 665 of title 18, United States Code, to the Comprehensive Employment and Training Act shall be deemed to refer to the Job Training Partnership Act.

29 USC 1592.

#### REPEALERS

SEC. 184. (a) Effective on the date of enactment of this Act—  
(1) the Comprehensive Employment and Training Act is repealed;

29 USC 801 *et seq.*

Repeal.  
29 USC 829a.

(2) section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

## TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

### PART A—ADULT AND YOUTH PROGRAMS

#### ALLOTMENT

29 USC 1601.

SEC. 201. (a) Not more than \$5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b)(1) Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States;

(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(2)(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

*Ante*, p. 1357.

Definitions.

(3) For purposes of paragraph (1)—

(A) the term “excess number” means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

(B) the term “economically disadvantaged” means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation,

child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

#### WITHIN STATE ALLOCATION

**SEC. 202.** (a)(1) The Governor shall, in accordance with section 162, allocate 78 percent of the allotment of the State (under section 201(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2). 29 USC 1602.

(2) Of the amount allocated under this subsection—

(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State;

(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged individuals within each service delivery area compared to the total number of economically disadvantaged individuals in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(3) For the purpose of this section—

Definitions.

(A) the term “excess number” means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

(B) the term “economically disadvantaged” means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

(b)(1) Eight percent of the allotment of each State (under section 201(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

(2) Three percent of such allotment of each State for each fiscal year shall be available to carry out section 124, relating to training programs for older individuals.

(3)(A) Six percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

Incentive grants.

(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs exceeding performance standards, including incentives for serving hard-to-serve individuals. The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State exceeding their performance standards in an equitable proportion based on the degree by which the service delivery areas exceed their performance standards. If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State which do not qualify for incentive grants under this subparagraph.

(4) Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities, and for other activities under sections 121 and 122.

#### ELIGIBILITY FOR SERVICES

29 USC 1603.

SEC. 203. (a)(1) Except as provided in paragraph (2), an individual shall be eligible to participate in programs receiving assistance under this title only if such individual is economically disadvantaged.

(2) Up to 10 percent of the participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, those who have limited English-language proficiency, or are displaced homemakers, school dropouts, teenage parents, handicapped, older workers, veterans, offenders, alcoholics, or addicts.

(b)(1) Funds provided under this part shall be used in accordance with the job training plan to provide authorized services to disadvantaged youth and adults. Except as provided in paragraph (2), not less than 40 percent of the funds available for such services shall be expended to provide such services to eligible youth.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the service delivery area differs from the ratio of such individuals nationally (as published by the Secretary), the amount which shall be required to expend for services for youth under paragraph (1) shall be reduced or increased proportionately in accordance with regulations prescribed by the Secretary.

42 USC 601.  
42 USC 602.

School dropout.

(3) Recipients of payments made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act who are required to, or have, registered under section 402(a)(19) of that Act and eligible school dropouts shall be served on an equitable basis, taking into account their proportion of economically disadvantaged persons sixteen years of age or over in the area. For purposes of this paragraph, a school dropout is an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(4) In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to partici-



pants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

(c) For purposes of this title—

(1) the term “youth” means an individual who is aged 16 through 21, and “Youth.”

(2) the term “adult” means an individual who is 22 years of age or older. “Adult.”

#### USE OF FUNDS

SEC. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to— 29 USC 1604.

- (1) job search assistance,
- (2) job counseling,
- (3) remedial education and basic skills training,
- (4) institutional skill training,
- (5) on-the-job training,
- (6) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,
- (7) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,
- (8) outreach to make individuals aware of, and encourage the use of employment and training services,
- (9) specialized surveys not available through other labor market information sources,
- (10) programs to develop work habits and other services to individuals to help them obtain and retain employment,
- (11) supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,
- (12) upgrading and retraining,
- (13) education-to-work transition activities,
- (14) literacy training and bilingual training,
- (15) work experience,
- (16) vocational exploration,
- (17) attainment of certificates of high school equivalency,
- (18) job development,
- (19) employment generating activities to increase job opportunities for eligible individuals in the area,
- (20) pre-apprenticeship programs,
- (21) disseminating information on program activities to employers,
- (22) use of advanced learning technology for education, job preparation, and skills training,
- (23) development of job openings,
- (24) on-site industry-specific training programs supportive of industrial and economic development,
- (25) followup services with participants placed in unsubsidized employment,

(26) coordinated programs with other Federal employment-related activities,

(27) needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and

(28) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

#### EXEMPLARY YOUTH PROGRAMS

29 USC 1605.

SEC. 205. (a) In addition to the services for youth which may be available in accordance with section 204, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e) of this section, each of which may be modified by the plan to accommodate local conditions.

(b)(1) The job training plan may provide for the conduct of an "education for employment program" for eligible youth who have not attained a high school diploma or who have educational deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

(2) The education for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

(3) The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic education competency requirements.

(4) For purposes of this section, priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet criteria under this Act.

(c)(1) The job training plan may provide for the conduct of a "preemployment skills training program" for youth, and individuals aged 14 and 15, with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

(2) The preemployment skill training program may provide youth up to 200 hours of instruction and activities.

(3) The instruction and activities may include—

- (A) assessment, testing, and counseling;
- (B) occupational career and vocational exploration;
- (C) job search assistance;
- (D) job holding and survival skills training;
- (E) basic life skills training;
- (F) remedial education;
- (G) labor market information; and
- (H) job-seeking skills training.

(d)(1) The job training plan may provide for the conduct of an "entry employment experience program" for youth who—

(A) have completed preemployment skills training or its equivalent;

(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this

Preemployment  
skills training  
program.

Entry  
employment  
experience  
program.

paragraph may be waived in accordance with criteria established in the job training plan; and

(C) are enrolled in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term,

with priority given to youth who do not plan to continue on to postsecondary education.

(2) Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

Entry  
employment  
experiences.

(3) Entry employment experiences may be one of the following types:

(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

(B) Tryout employment at private for-profit worksites, or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and vacancies in such positions may not be refilled if the previous participant completed the tryout employment but was not hired by the employer.

(C) Cooperative education programs to coordinate educational programs with work in the private sector.

(e)(1) The job training plan may provide for the conduct of a "school-to-work transition assistance program" for youth who are—

School-to-work  
transition  
assistance  
program.

(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

(B) dropouts, with followup as immediately as possible after leaving school.

(2) Transition services include—

(A) provision of occupational information;

(B) short-duration job search assistance;

(C) job clubs;

(D) placement and job development; and

(E) followup.

(3) Seniors and dropouts who are eligible for and in need of training activities may be provided information and, where appropriate, referred to—

(A) preemployment skills training, entry employment experience, and remedial education;

(B) adult training activities; and

(C) the Job Corps.

**PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS****AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION**

29 USC 1631.

**SEC. 251. (a)** From the funds appropriated under section 3(b), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

**(b)** The remainder of sums appropriated pursuant to section 3(b) shall be allotted among States in accordance with section 201(b) and allocated among service delivery areas within States in accordance with section 202(a)(2) and (3).

**USE OF FUNDS**

29 USC 1632.

**SEC. 252.** Funds available under this part may be used for—

(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment; and

(2) supportive services necessary to enable such individuals to participate in the program.

**LIMITATIONS**

29 USC 1633.

**SEC. 253. (a)** Programs under this part shall be conducted during the summer months.

**(b)** Except as provided in subsection (c), individuals eligible under this part shall be economically disadvantaged youth.

**(c)** Eligible individuals aged 14 or 15 shall, if appropriate and set forth in the job training plan, be eligible for summer youth programs under this part.

**APPLICABLE PROVISIONS**29 USC 1634.  
*Ante*, p. 1327.

**SEC. 254.** Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of title II.

*Ante*, p. 1358.**TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR  
DISLOCATED WORKERS****ALLOCATION OF FUNDS**

29 USC 1651.

**SEC. 301. (a)** From the amount appropriated to carry out this title for any fiscal year, the Secretary may reserve up to 25 percent of such amount for use by the States in accordance with subsection (c).

(b) The Secretary shall allot the remainder of the amount appropriated to carry out this title for any fiscal year among the States as follows:

Funds,  
allocation.

(1) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term "excess number" means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

"Excess  
number."

(3) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for fifteen weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(c) The Secretary shall make available the sums reserved under subsection (a) for the purpose of providing training, retraining, job search assistance, placement, relocation assistance, and other aid (including any activity authorized by section 303) to individuals who are affected by mass layoffs, natural disasters, Federal Government actions (such as relocations of Federal facilities), or who reside in areas of high unemployment or designated enterprise zones. In order to qualify for assistance from funds reserved by the Secretary under subsection (a), a State shall, in accordance with regulations promulgated by the Secretary establishing criteria for awarding assistance from such funds, submit an application identifying the need for such assistance and the types of, and projected results expected from, activities to be conducted with such funds.

Funding  
application,  
submittal.

(d) The Secretary is authorized to reallocate any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within one year of allotment.

#### IDENTIFICATION OF DISLOCATED WORKERS

SEC. 302. (a) Each State is authorized to establish procedures to identify substantial groups of eligible individuals who—

29 USC 1652.

(1) have been terminated or laid-off or who have received a notice of termination or lay-off from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or

(3) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of eligible individuals is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market area or outside the labor market area for which such individuals could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the local labor market area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to the individuals. The acceptance of training for such opportunities shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

#### AUTHORIZED ACTIVITIES

29 USC 1653.

SEC. 303. (a) Financial assistance provided to States under this title may be used to assist eligible individuals to obtain unsubsidized employment through training and related employment services which may include, but are not limited to—

- (1) job search assistance, including job clubs,
- (2) job development,
- (3) training in jobs skills for which demand exceeds supply,
- (4) supportive services, including commuting assistance and financial and personal counseling,
- (5) pre-layoff assistance,
- (6) relocation assistance, and
- (7) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(b) Relocation assistance may be provided if the State determines (1) that the individual cannot obtain employment within the individual's commuting area, and (2) that the individual has secured suitable long-duration employment or obtained a bona fide job offer in a relocation area in a State.

#### MATCHING REQUIREMENT

29 USC 1654.

SEC. 304. (a)(1) In order to qualify for financial assistance under this title, a State shall demonstrate, to the satisfaction of the Secretary, that it will expend for purposes of services assisted under this title, an amount from public or private non-Federal sources equal to the amount made available to that State under section 301(b).

(2) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the non-Federal matching funds described in paragraph (1) required to be provided by such State for that fiscal year shall be reduced by 10 percent for each 1 percent, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(3) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all

States for each fiscal year on the basis of the most recent twelve-month period prior to that fiscal year.

(b)(1) Such non-Federal matching funds shall include the direct cost of employment or training services under this title provided by State or local programs (such as vocational education), private nonprofit organizations, or private for-profit employers.

(2) Funds expended from a State fund to provide unemployment insurance benefits to an eligible individual for purposes of this title and who is enrolled in a program of training or retraining under this title may be credited for up to 50 percent of the funds required to be expended from non-Federal sources as required by this section.

#### PROGRAM REVIEW

SEC. 305. Except for programs of assistance operated on a statewide or industry-wide basis, no program of assistance conducted with funds made available under this title may be operated within any service delivery area without a 30-day period for review and recommendation by the private industry council and appropriate chief elected official or officials for such area. The State shall consider the recommendation of such private industry council and chief elected official or officials before granting final approval of such program, and in the event final approval is granted contrary to such recommendation, the State shall provide the reasons therefor in writing to the appropriate private industry council and chief elected official or officials. 29 USC 1655.

#### CONSULTATION WITH LABOR ORGANIZATIONS

SEC. 306. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization. 29 USC 1656.

#### LIMITATIONS

SEC. 307. (a) Except as provided in subsection (b), there shall be available for supportive services, wages, allowances, stipends, and costs of administration, not more than 30 percent of the Federal funds available under this title in each State. 29 USC 1657.

(b) The funds to which the limitation described in subsection (a) applies shall not include the funds referred to in section 301(a). In no event shall such limitation apply to more than 50 percent of the total amount of Federal and non-Federal funds available to a program.

#### STATE PLANS; COORDINATION WITH OTHER PROGRAMS

SEC. 308. Any State which desires to receive financial assistance under this title shall submit to the Secretary a plan for the use of such assistance which shall include appropriate provisions for the coordination of programs conducted with such assistance, as described in section 121, low-income weatherization and other energy conservation programs, and social services. 29 USC 1658.

**TITLE IV—FEDERALLY ADMINISTERED PROGRAMS****PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS****NATIVE AMERICAN PROGRAMS**

29 USC 1671.

**SEC. 401.** (a) The Congress finds that (1) serious unemployment and economic disadvantages exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantages among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of the individuals to be served by the provisions of this section, (1) such programs shall be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and groups and to other groups and individuals of Native American descent; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

43 USC 1601  
note.

(c)(1)(A) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups on Federal or State reservations, Oklahoma Indians, and including for the purpose of this Act, Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act, having a governing body for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Native Americans for employment and training and related services.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with organizations which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, admin-



istration, monitoring, and evaluation of Native American employment and training programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by recipients under other provisions of this Act.

(g) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

(h)(1) The Secretary shall, after consultation with representatives of Indians and other Native Americans, prescribe such rules, regulations, and performance standards relating to Native American programs under this section as may be required to meet the special circumstances under which such programs operate.

Rules,  
regulations and  
performance  
standards.

(2) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 103.

Performance  
goals.

(i) The Secretary shall provide technical assistance as necessary to tribes, bands, and groups eligible for assistance under this section.

Technical  
assistance.

(j) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.3 percent of the amount available for part A of title II of this Act for such fiscal year.

#### MIGRANT AND SEASONAL FARMWORKER PROGRAMS

SEC. 402. (a) The Congress finds and declares that—

29 USC 1672.

(1) chronic seasonal unemployment and underemployment in the agricultural industry, aggravated by continual advancements in technology and mechanization resulting in displacement, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of farmworker employment and training problems, such programs shall be centrally administered at the national level.

(b) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of migrant and seasonal employment and training programs authorized under this Act.

(c)(1) The Secretary shall provide services to meet the employment and training needs of migrant and seasonal farmworkers through such public agencies and private nonprofit organizations as the Secretary determines to have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers. In awarding any grant or contract for services under this section, the Secretary shall use procedures consistent with standard competitive Government procurement policies.

Grants or  
contracts.

(2) The Secretary may approve the designation of grantees under this section for a period of two years.

(3) Programs and activities supported under this section, including those carried out under other provisions of this Act, shall enable

Performance  
goals.

farmworkers and their dependents to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment, and shall include related assistance and supportive services.

(4) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 103.

(5) No programs and activities supported under this section shall preclude assistance to farmworkers under any other provision of this Act.

(d) In administering programs under this section, the Secretary shall consult with appropriate State and local officials.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of migrant and seasonal farmworker's employment and training programs authorized under this Act.

(f) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.2 percent of the amount available for part A of title II of this Act for such fiscal year.

## PART B—JOB CORPS

### STATEMENT OF PURPOSE

29 USC 1691.

**SEC. 421.** This part maintains a Job Corps for economically disadvantaged young men and women which shall operate exclusively as a distinct national program, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young individuals who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of national, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

### ESTABLISHMENT OF THE JOB CORPS

29 USC 1692.

**SEC. 422.** There shall be within the Department of Labor a "Job Corps".

### INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

29 USC 1693.

**SEC. 423.** To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

(1) has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary, in the case of any handicapped individual; Waiver.

(2) is economically disadvantaged or is a member of a family which is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 424 and 425 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

(5) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

#### SCREENING AND SELECTION OF APPLICANTS: GENERAL PROVISIONS

SEC. 424. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, entities administering programs under title II of this Act, professional groups, labor organizations, and agencies and individuals having contact with youth over substantial periods of time and able to offer reliable information as to their needs and problems. The rules shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

Standards and  
procedures.  
29 USC 1694.

(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

(b) The Secretary is authorized to make payments to individuals and organizations for the cost of the recruitment, screening, and selection of candidates, as provided for in this part. The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

Payments.

Rural areas,  
selection.

(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

#### SCREENING AND SELECTION: SPECIAL LIMITATIONS

29 USC 1695.

SEC. 425. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

(b) An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

#### ENROLLMENT AND ASSIGNMENT

29 USC 1696.

SEC. 426. (a) No individual may be enrolled in the Job Corps for more than two years, except in any case in which completion of an advanced career program under section 428 would require an individual to participate in excess of two years, or except as the Secretary may authorize in special cases.

(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Waiver.

(c) After the Secretary has determined that an enrollee is to be assigned to a Job Corps center, the enrollee shall be assigned to the center which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to ensure an equitable opportunity for youth from various sections of the Nation to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

#### JOB CORPS CENTERS

29 USC 1697.

SEC. 427. (a)(1) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may, subject to paragraph (2), be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrange-

20 USC 2304.

ments with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semiskilled employment.

(2) In any year, not more than 10 percent of the individuals enrolled in the Job Corps may be nonresidential participants.

(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

#### PROGRAM ACTIVITIES

SEC. 428. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized, and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing their daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility, and discipline. 29 USC 1698.

(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) To the extent feasible, arrangements for education, both at the center and at other locations, shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Education, shall develop certificates to be issued to each enrollee who satisfactorily completes service in the Job Corps and which will reflect the enrollee's level of educational attainment.

Certificates of  
educational  
attainment.

(d)(1) The Secretary may arrange for programs of advanced career training for selected Corps enrollees in which they may continue to participate for a period not to exceed one year in addition to the period of participation to which Corps enrollees would otherwise be limited.

Advanced career  
training.

(2) Advanced career training may be provided for in postsecondary institutions for Corps enrollees who have attained a high school diploma or its equivalent, have demonstrated commitment and capacity in their previous Job Corps participation, and have an identified occupational goal.

(3) The Secretary may contract with private for-profit businesses and labor unions to provide intensive training in company-sponsored training programs, combined with internships in work settings.

(4) During the period of participation in advanced career training programs, Corps enrollees shall be eligible for full Job Corps benefits or a monthly stipend equal to the average value of residential support, food, allowances, and other benefits in residential Job Corps centers, except that the total amount for which an enrollee shall be eligible shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee.

(5) After an initial period of time, determined to be reasonable by the Secretary, any Job Corps center seeking to enroll new Corps enrollees in any advanced career training program shall demonstrate that such program has achieved a reasonable rate of completion and placement in training-related jobs before such new enrollments may occur.

#### ALLOWANCES AND SUPPORT

29 USC 1699.

SEC. 429. (a) The Secretary shall provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. For the fiscal year ending September 30, 1983, personal allowances shall be established at a rate not to exceed \$65 per month during the first six months of an enrollee's participation in the program and not to exceed \$110 per month thereafter, except that allowances in excess of \$65 per month, but not exceeding \$110 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified in this subsection in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) The Secretary shall prescribe rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months' service in the Job Corps.

(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed, for the fiscal year ending September 30, 1983, \$110 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance unless he has remained in the program at least 90 days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee. The Secretary is authorized, pursuant to rules or regulations, to reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during

Enrollment,  
termination.  
Readjustment  
allowance.

participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(d) Such portion of the readjustment allowance as prescribed by the Secretary may be paid monthly during the period of service of the enrollee directly to a spouse or child of an enrollee, or to any other relative who draws substantial support from the enrollee, and any amount so paid shall be supplemented by the payment of an equal amount by the Secretary.

#### STANDARDS OF CONDUCT

**SEC. 430.** (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that their retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

29 USC 1700.

(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees, including dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

#### COMMUNITY PARTICIPATION

**SEC. 431.** The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth shall be represented on the advisory council and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

29 USC 1701.

(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

(7) developing, where feasible, job or career opportunities for enrollees in the community; and

(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools and libraries, educational institutions, agencies serving young people and recipients of funds under this Act.

#### COUNSELING AND JOB PLACEMENT

29 USC 1702.

SEC. 432. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

(c) The Secretary shall determine the status and progress of enrollees scheduled for termination and make every effort to assure that their needs for further education, training, and counseling are met.

(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

#### EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AND COORDINATION WITH OTHER PROGRAMS

29 USC 1703.

SEC. 433. (a)(1) The Secretary is authorized to undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youth with education, training, and other supportive services on a combined residential and nonresidential basis.

(2) The Secretary is authorized to undertake one or more pilot projects designed to determine the value of Job Corps participation for young adults aged 22 to 24, inclusive.

(3) The Secretary is authorized to undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations.

(4) Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the administrative entity in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent



they include the same or substantially similar activities. The Secretary is authorized to waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

Waiver.

Report to Congress.

(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Education, is authorized to enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

(c)(1) The Secretary, through the Job Corps and activities authorized under sections 452 and 455, shall develop and implement activities designed to disseminate information gained from Job Corps program experience which may be of use in the innovation and improvement of related programs. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(2) The Secretary is authorized to develop Job Corps programs to test at various centers the efficacy of selected education or training activities authorized under this or any other Act and to appropriately disseminate the results of such tests. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(d) The Secretary is authorized to enter into appropriate arrangements with the Secretary of Defense for the development of pilot projects at Job Corps centers to prepare youth to qualify for military service. In the event that the Secretary of Labor and the Secretary of Defense agree that such pilot projects should be expanded into permanent programs, the Secretary may establish such permanent programs within the Job Corps, if the Secretary of Defense agrees (1) to provide 50 percent of the costs attributable to such permanent programs, and (2) to reimburse the Secretary of Labor for an additional amount if more than 50 percent of the enrollees in such programs become members of the Armed Forces. Such additional amount shall be equal to a percentage of such costs which is the percentage by which more than 50 percent of such enrollees become such members. In addition to the provision of funds, such reimbursement may include the provision of equipment, materials, transportation, technical assistance, or other assistance, as specified by the Secretary.

Pilot projects.

Reimbursement.

(e) In order to determine whether community participation as required under section 431 can be improved through the closer involvement of community-based organizations, the Secretary is authorized to undertake one or more pilot projects utilizing community-based organizations of demonstrated effectiveness for Job Corps center operation. For purposes of such pilot projects, the term "community-based organizations" may include nonprofit educational foundations organized on a State or local basis.

"Community-based organizations."

## ADVISORY BOARDS AND COMMITTEES

29 USC 1704.

SEC. 434. The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

## PARTICIPATION OF THE STATES

29 USC 1705.

SEC. 435. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Secretary is authorized to enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary is authorized, pursuant to regulations, to pay part or all of the costs of such programs to the extent such costs are attributable to carrying out the purpose of this part.

Limitation.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

## APPLICATION OF PROVISIONS OF FEDERAL LAW

Federal  
employment.  
29 USC 1706.

SEC. 436. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

5 USC 8101 et  
seq.  
"Employee."

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except—

(A) the term “performance of duty” shall not include any act of an enrollee while absent from the assigned post of duty of such enrollee, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

Performance of duty.

(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

Disability compensation.

(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary is authorized to adjust and settle it in an amount not exceeding \$1,500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

#### SPECIAL PROVISIONS

SEC. 437. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

Women enrollment.  
29 USC 1707.

(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

#### GENERAL PROVISIONS

SEC. 438. The Secretary is authorized to—

29 USC 1708.

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this part—

(A) for printing and binding, in accordance with applicable law and regulation; and

(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not utilize the authority contained in this subparagraph—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

#### DONATIONS

29 USC 1709.

SEC. 439. The Secretary is authorized to accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including but not limited to, equipment and materials, if such donations are available for appropriate use for the purposes set forth in this part.

### PART C—VETERANS' EMPLOYMENT PROGRAMS

#### PROGRAMS AUTHORIZED

29 USC 1721.

SEC. 441. (a)(1) The Secretary shall conduct, directly or through grant or contract, programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service.

(2) Programs supported under this part may be conducted through public agencies and private nonprofit organizations, including recipients under other provisions of this Act that the Secretary determines have an understanding of the unemployment problems of such veterans, familiarity with the area to be served, and the capability to administer effectively a program of employment and training assistance for such veterans.

(3) Programs supported under this part shall include, but not be limited to—

(A) activities to enhance services provided veterans by other providers of employment and training services funded by Federal, State, or local government;

(B) activities to provide employment and training services to such veterans not adequately provided by other public employment and training service providers; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such

veterans and to inform such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program-performance standards for grant recipients under this part; and

(B) consult with the Administrator of Veterans' Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

38 USC 240, 1501  
et seq., 1651 et  
seq., 612A,  
620A, 1787,  
2003A.

## PART D—NATIONAL ACTIVITIES

### MULTISTATE PROGRAMS

SEC. 451. (a) Funds available to carry out this section shall be used for job training programs or services (as authorized under any other provision of this Act) which are most appropriately administered at the national level and which are operated in more than one State.

29 USC 1731.

(b) Programs which are most appropriately administered at the national level include programs such as—

(1) programs addressed to industry-wide skill shortages;

(2) programs designed to train workers for employment opportunities located in another State;

(3) regional or nationwide efforts to develop a labor force with skills that promote the use of renewable energy technologies, energy conservation, and the weatherization of homes occupied by low-income families;

(4) programs designed to develop information networks among local programs with similar objectives under this Act; and

(5) programs which require technical expertise available at the national level and which serve specialized needs of particular client groups, including offenders, individuals of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, individuals who lack education credentials, public assistance recipients, and other individuals whom the Secretary determines require special assistance.

### RESEARCH AND DEMONSTRATION

SEC. 452. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's

29 USC 1732.

employment and training problems. The program under this section may include studies concerning the development or improvement of Federal, State, local, and privately supported employment and training programs; labor market processes and outcomes; policies and programs to reduce unemployment and the relationships thereof with price stability and other national goals; productivity of labor; improved means of forecasting and using forecasts of labor supply and demand at the national and subnational levels; methods of improving the wages and employment opportunities of low-skilled and disadvantaged workers; measuring and developing policies to eliminate worker shortages; and easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

(b) The Secretary shall establish a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Research activities may include studies, experiments, demonstrations, and pilot projects in such areas as easing the transition from school to work, assessing the changing demographics of the American work-force and addressing the short-term and long-term impact of the changes, increasing employment of skilled workers critical to defense readiness, and, subject to the last sentence of this subsection, projects developed in conjunction with the Secretary of Defense to meet civilian manpower needs on military installations and in the private sector, and eliminating artificial barriers to employment. The Secretary may pay not to exceed 60 percent of the costs of projects developed in conjunction with the Secretary of Defense described in the preceding sentence, and the contributions of the Department of Defense may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

#### PILOT PROJECTS

29 USC 1733.

SEC. 453. (a) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons whom the Secretary determines require special assistance, and projects designed to address skill shortages that affect other critical national objectives, including national security.

(b) Each pilot project assisted under this section shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) No project under this section shall be financially assisted for more than three years under this Act.

Applications.

(d) In selecting recipients under this section, the Secretary shall give special consideration to applications submitted by community-based organizations of demonstrated effectiveness, as well as to labor unions, and trade associations and their affiliates that address nationwide concerns through programs operating in more than one State.

## EVALUATION

SEC. 454. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services.

29 USC 1734.

(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title II of the Social Security Act with respect to the statutory goals, the performance standards established by the Secretary, and of increases in employment and earnings for participants, reduced income support costs, increased tax revenues, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

42 USC 401.

## TRAINING AND TECHNICAL ASSISTANCE

SEC. 455. (a) The Secretary, in consultation with appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, including job skills teachers, and appropriate technical assistance (including technical assistance to training programs for housing for migrant and seasonal farmworkers) with respect to programs under this Act, including the development and attainment of performance goals. Such activities may include the utilization of training and technical assistance capabilities which exist at the State and service delivery area level.

29 USC 1735.

(b) The Secretary shall establish a national clearinghouse to disseminate materials and information gained from exemplary program experience which may be of use in the innovation or improvement of other programs conducted pursuant to this Act.

Information disclosure.

## PART E—LABOR MARKET INFORMATION

## LABOR MARKET INFORMATION; AVAILABILITY OF FUNDS

SEC. 461. (a) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, such sums as may be necessary to maintain a comprehensive system of labor market information on a national, regional, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

29 USC 1751.

(b) Funds available for purposes of this part shall also be available for purposes of section 125 (relating to State labor market information).

(c) Notwithstanding any other provision of law, funds available to other Federal agencies for carrying out chapter 35 of title 44, United States Code, the Vocational Education Act of 1963, and the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), may be

44 USC 3501 *et seq.*;  
20 USC 2301  
note;  
29 USC 49 note.

made available by the head of each such agency to assist in carrying out the provisions of this part.

#### COOPERATIVE LABOR MARKET INFORMATION PROGRAM

29 USC 1752.

SEC. 462. (a) The Secretary shall develop and maintain for the Nation, State, and local areas, current employment data by occupation and industry, based on the occupational employment statistics program, including selected sample surveys, and projections by the Bureau of Labor Statistics of employment and openings by occupation.

(b) The Secretary shall maintain descriptions of job duties, training and education requirements, working conditions, and characteristics of occupations.

(c) In carrying out the provisions of this section, the Secretary shall assure that—

(1) departmental data collecting and processing systems are consolidated to eliminate overlap and duplication;

44 USC 3501 *et seq.*

(2) the criteria of chapter 35 of title 44, United States Code, are met; and

(3) standards of statistical reliability and national standardized definitions of employment, unemployment, and industrial and occupational definitions are used.

(d)(1) The Secretary is authorized to develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

(2) The Secretary is authorized to develop and maintain, on national, State, local, and other appropriate bases, household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural.

Report.

(3) The Secretary shall publish, at least annually, a report relating labor force status to earnings and income.

(e) The Secretary shall develop and maintain statistical data relating to permanent lay-offs and plant closings. The Secretary shall publish a report based upon such data, as soon as practicable, after the end of each calendar year. Among the data to be included are—

(1) the number of such closings;

(2) the number of workers displaced;

(3) the location of the affected facilities; and

(4) the types of industries involved.

#### SPECIAL FEDERAL RESPONSIBILITIES

29 USC 1753.

SEC. 463. (a) The Secretary, in cooperation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, through the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963, shall—

20 USC 2391.

(1) review the need for and the application of all operating national data collection and processing systems in order to identify gaps, overlap, and duplications, and integrate at the



national level currently available data sources in order to improve the management of information systems;

(2) maintain, assure timely review, and implement national standardized definitions with respect to terms, geographic areas, timing of collection, and coding measures, to the maximum extent feasible; and

(3) provide technical assistance to the States in the development, maintenance, and utilization of labor market/occupational supply and demand information systems and projections of supply and demand as described in section 125, with special emphasis on assistance in the utilization of cost-efficient automated systems and improving access of individuals to career opportunities information in local and State labor markets.

(b) The Secretary, in cooperation with the Secretary of Defense, shall assure the development of an integrated occupational supply and demand information system to be used by States and, in particular, in secondary and postsecondary educational institutions in order to assure young persons adequate information on career opportunities in the Armed Forces.

(c) The Secretary and the Director of the Office of Management and Budget shall assure that, from the funds reserved for this part, sufficient funds are available to provide staff at the Federal level to assure the coordination functions described in this section.

#### NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

SEC. 464. (a)(1) Of the amounts available for this part, not more than \$5,000,000 is authorized to be reserved for the National Occupational Information Coordinating Committee (established pursuant to section 161(b) of the Vocational Education Act of 1963).

29 USC 1754.

(2) In addition to the members required by such Act, the Committee shall include the Assistant Secretary of Commerce for Economic Development and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

20 USC 2391.

(3) Not less than 75 percent of the funds transferred by the Secretary to the National Occupational Information Coordinating Committee shall be used to support State occupational information coordinating committees and other organizational units designated under section 125 for carrying out State labor market information programs.

(b) In addition to its responsibilities under the Vocational Education Act of 1963, the National Occupational Information Coordinating Committee shall—

(1) carry out the provisions of section 463;

(2) give special attention to the labor market information needs of youth and adults, including activities such as (A) assisting and encouraging States to adopt methods of translating national occupational outlook information into State and local terms; (B) assisting and encouraging the development of State occupational information systems, including career information delivery systems and the provision of technical assistance for programs of on-line computer systems and other facilities to provide career information at sites such as local schools, public employment service offices, and job training programs authorized under this Act; (C) in cooperation with educational agencies and institutions, encouraging programs providing career information, counseling, and employment services for

postsecondary youth; and (D) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth and adults in correctional institutions;

(3) provide training and technical assistance, and continuing support to State occupational information coordinating committees, in the development, maintenance, and use of occupational supply and demand information systems, with special emphasis on the use of cost efficient automated systems for delivering occupational information to planners and administrators of education and training programs and on improving the access of such planners and administrators to occupational information systems;

Report.

(4) publish at least annually a report on the status of occupational information capabilities at the State and national levels, which may include recommendations for improvement of occupational information production and dissemination capabilities;

(5) conduct research and demonstration projects designed to improve any aspect of occupational and career information systems;

(6) provide technical assistance for programs designed to encourage public and private employers to list all available job opportunities with occupational information and career counseling programs conducted by administrative entities and with local public employment service offices and to encourage cooperation and contact among such employers and such administrative entities and public employment service offices; and

(7) providing assistance to units of general local government and private industry councils to familiarize them with labor market information resources available to meet their needs.

(c) All funds available to the National Occupational Information Coordinating Committee under this Act, under section 161 of the Vocational Education Act of 1963, and under section 12 of the Career Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

20 USC 2391.

#### JOB BANK PROGRAM

29 USC 1755.

SEC. 465. The Secretary is authorized to establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code, on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available individuals and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged individuals with employer requirements and job opportunities, and referring and placing such individuals in jobs. An occupational information file may be developed, containing occupational projections of the numbers and types of jobs on regional, State, local, and other appropriate bases, as well as labor supply information by occupation.

## PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

## STATEMENT OF PURPOSE

SEC. 471. The purpose of this part is to establish a National Commission for Employment Policy which shall have the responsibility for examining broad issues of development, coordination, and administration of employment and training programs, and for advising the President and the Congress on national employment and training issues. For the purpose of providing funds for the Commission, the Secretary shall reserve \$2,000,000 of the sums appropriated for this title for each fiscal year. 29 USC 1771.

## COMMISSION ESTABLISHED

SEC. 472. (a) There is established a National Commission for Employment Policy (hereinafter in this part referred to as the "Commission"). The Commission shall be composed of 15 members, appointed by the President. The members of the Commission shall be individuals who are nationally prominent and the Commission shall be broadly representative of agriculture, business, labor, commerce, education (including elementary, secondary, postsecondary, and vocational and technical education), veterans, current State and local elected officials, community-based organizations, assistance programs, and members of the general public with expertise in human resource development or employment and training policy. One of the members shall be a representative of the National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963). The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups. 29 USC 1772.

(b) The term of office of each member of the Commission appointed by the President under subsection (a) shall be three years, except that— 20 USC 2392.

(1) any such member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

(2) of such members first taking office—

(A) five shall serve for terms of one year;

(B) five shall serve for terms of two years; and

(C) five shall serve for terms of three years;

as designated by the President at the time of appointment.

(c)(1) The Chairman shall be selected by the President.

(2) The Commission shall meet not fewer than three times each year at the call of the Chairman. Meetings.

(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman.

## FUNCTIONS OF THE COMMISSION

29 USC 1773.

**SEC. 473. The Commission shall—**

(1) identify the employment goals and needs of the Nation, and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this Act and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) develop and make appropriate recommendations designed to meet the needs and goals described in clause (1);

(3) examine and evaluate the effectiveness of federally assisted employment and training programs (including programs assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2);

(4) advise the Secretary on the development of national performance standards and the parameters of variations of such standards for programs conducted pursuant to this Act;

(5) evaluate the impact of tax policies on employment and training opportunities;

(6) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or the objectives set forth in the recommendations of the Commission, and particular attention shall be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

(7)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

Reports.

(B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963;

20 USC 2392.  
Recommendations.

(8) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

(9) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including conditions of employment, organizational effectiveness and effi-

ciency, alternative working arrangements, and technological changes;

(10) evaluate the effectiveness of training provided with Federal funds in meeting emerging skill needs; and

(11) study and make recommendations on the use of advanced technology in the management and delivery of services and activities conducted under this Act.

Recommendations.

#### ADMINISTRATIVE PROVISIONS

SEC. 474. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

29 USC 1774.

(1) prescribe such rules and regulations as may be necessary;

Regulations.

(2) appoint and fix the compensation of such staff personnel as the Chairman deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the General Schedule pay rates, appoint not to exceed five additional professional personnel;

5 USC 5101 *et seq.*, 5331.

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this title;

(6) enter into contracts and make such other arrangements and modifications, as may be necessary;

(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this title;

(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor; and

(9) make advances, progress, and other payments necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this Act.

#### REPORTS

SEC. 475. The Commission shall make at least annually a report of its findings and recommendations to the President and to the Congress. The Commission may make such interim reports or recom-

29 USC 1775.

mendations to the Congress, the President, the Secretary, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

**PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS**

**AFFIRMATIVE ACTION**

29 USC 1781.  
3 CFR  
1964-1965  
Comp., p. 339.

**SEC. 481.** (a) A contractor subject to the affirmative action obligations of Executive Order 11246, as amended, issued September 24, 1965, may establish or participate in training programs pursuant to this section for individuals meeting the eligibility criteria established in sections 203(a)(1), 401, and 402, which are designed to assist such contractors in meeting the affirmative action obligations of such Executive order. To qualify under this section, such a training program shall contain—

(1) a description of the jobs in the contractor's work force or in the service delivery area, for which the contractor has determined there is a need for training;

(2) a description of the recruiting, training, or other functions that the contractor, or the organization that will be engaged to perform the training, will perform and the steps that will be taken to insure that eligible individuals will—

(A) be selected for participation in training,

(B) be trained in necessary skills, and

(C) be referred for job openings,

in accordance with the objectives of such Executive order;

(3) whenever an organization other than the contractor will perform the training, a description of the demonstrated effectiveness of the organization as a provider of employment and training services;

(4) a description of how the contractor will monitor the program to keep an accurate accounting of all trainees, including

(A) whether the trainees successfully complete the training program, and (B) whether the trainees are or are not placed; and

(5) an estimation of the cost of the program and an assurance that the contractor will assume all costs of the program or the pro rata share of costs to the contractor of the program.

(b)(1)(A) If the training proposal is designed to meet the needs of the community rather than, or in addition to, the employment needs of the contractor, and has not been approved by another Federal agency, the program shall be submitted to the private industry council established under section 102 for a determination that there is a need for such training in the community.

(B) Individuals trained under any program satisfying the requirements of this section may be included by the private industry council in its performance accomplishments and the wage gains of such individuals shall be included in determining the compliance of the job training program of the private industry council with applicable standards.

(2) The Director of the Office of Federal Contract Compliance Programs, Department of Labor, shall promulgate regulations setting forth how the Office will determine, during a compliance review, the degree to which a training program will satisfy the

Regulations.

contractor's affirmative action obligations. The training and placement of trainees with employers other than the contractor may be considered in evaluating such contractor's overall good faith efforts, but in no event may placement of trainees with employers other than the contractor be permitted to affect that contractor's affirmative action obligations respecting its work force. The content of the training program will not be subject to review or regulation by the Office of Federal Contract Compliance Programs. If during a compliance review the Director of the Office of Federal Contract Compliance Programs determines that a training program does not comply with its regulations, the Director shall—

Compliance  
review.

(A) notify the contractor of the disapproval,

(B) set forth the reasons for the disapproval, and

(C) provide a list of recommendations which, if accepted, will qualify the training program under this section.

(3) A contractor who has a training program which contains the criteria set forth in subsection (a) and which is in accordance with regulations promulgated under paragraph (2) of this subsection shall continue to meet the affirmative action obligations of Executive Order 11246, as amended, but the contractors required to maintain a written affirmative action program need only maintain an abbreviated affirmative action program, the content and length of which shall be determined by the Director of the Office of Federal Contract Compliance Programs, to satisfy the written affirmative action program portion of their obligations under Executive Order 11246, as amended. Successful performance or operation of a training program meeting the criteria set forth in subsection (a) shall create a presumption that the contractor has made a good faith effort to meet its affirmative action obligations to the degree specified by the Director under paragraph (2) of this subsection, but that presumption shall not be applicable to the satisfaction of other affirmative action obligations not directly related to the training and hiring requirements of this section, or other affirmative action obligations not affected by this section. For the purpose of the preceding sentence, "successful performance or operation" means training and placing in jobs a number of individuals which bears a reasonable relationship to the number of job openings in the contractor's facilities or in the relevant labor market area.

3 CFR,  
1964-1965  
Comp., p. 339.

"Successful  
performance or  
operation."

(c) Nothing in this section may be interpreted—

(1) to compel contractor involvement in such programs,

(2) to establish the exclusive criteria by which a contractor can be found to have fulfilled its affirmative action obligations,

(3) to provide authority for imposing any additional obligations on contractors not participating in such training activities,

(4) to permit the Office of Federal Contract Compliance Programs to intervene or interfere with the authority and responsibilities of the private industry councils,

(5) to restrict or limit the authority of the Secretary to investigate the employment practices of any Government contractor, to initiate such investigation by the Director, to determine whether any nondiscrimination contractual provisions have been violated, or to enforce Executive Order 11246, or

(6) to prohibit the Secretary or the Director, or other authorized officers of the United States, from requesting or compelling any contractor preparing and maintaining a short form affirmative action plan under subsection (b) to provide information necessary to conduct a compliance review or to provide data

3 CFR, 1964-1965  
Comp., p. 339.

3 CFR, 1964-1965  
Comp., p. 339.

necessary to determine whether any violation of Executive Order 11246 has occurred.

## TITLE V—MISCELLANEOUS PROVISIONS

### AMENDMENTS TO THE WAGNER-PEYSER ACT

SEC. 501. (a) The Act of June 6, 1933, known as the Wagner-Peyser Act (29 U.S.C. 49 et seq.), is amended by striking out all that precedes section 4 of such Act and inserting in lieu thereof the following:

29 USC 49.

"SECTION 1. In order to promote the establishment and maintenance of a national system of public employment offices, the United States Employment Service shall be established and maintained within the Department of Labor.

Definitions.  
29 USC 49a.

"SEC. 2. For purposes of this Act—

*Ante.*, p. 1322.

"(1) the term 'chief elected official or officials' has the same meaning given that term under the Job Training Partnership Act;

"(2) the term 'private industry council' has the same meaning given that term under the Job Training Partnership Act;

"(3) the term 'Secretary' means the Secretary of Labor;

"(4) the term 'service delivery area' has the same meaning given that term under the Job Training Partnership Act; and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

29 USC 49b.

"SEC. 3. (a) The United States Employment Service shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.

42 USC 601.

42 USC 651.

"(b) It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor."

29 USC 49d.

(b) Section 5 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:



“(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which—

“(1) except in the case of Guam, has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended,

26 USC 3311.  
42 USC 503.

“(2) is found to have coordinated the public employment services with the provision of unemployment insurance claimant services, and

“(3) is found to be in compliance with this Act, such amounts as the Secretary determines to be necessary for allotment in accordance with section 6.

“(c)(1) Beginning with fiscal year 1985 and thereafter appropriations for any fiscal year for programs and activities assisted or conducted under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

Appropriation  
availability.

“(2) Funds obligated for any program year may be expended by the State during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

“(3)(A) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

Appropriation  
availability.

“(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.”

Appropriation  
authorization.

(c) Such Act is amended by adding at the end of section 5 the following new sections:

“SEC. 6. (a) From the amounts appropriated pursuant to section 5 for each fiscal year, the Secretary shall first allot to Guam and the Virgin Islands an amount which, in relation to the total amount available for the fiscal year, is equal to the allotment percentage which each received of amounts available under this Act in fiscal year 1983.

Allotments.  
29 USC 49e.

“(b)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the Secretary shall allot the remainder of the sums appropriated and certified pursuant to section 5 of this Act for each fiscal year among the States as follows:

“(A) two-thirds of such sums shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State as compared to the total number of such individuals in all States; and

“(B) one-third of such sums shall be allotted on the basis of the relative number of unemployed individuals in each State as compared to the total number of such individuals in all States.

For purposes of this paragraph, the number of individuals in the civilian labor force and the number of unemployed individuals shall be based on data for the most recent calendar year available, as determined by the Secretary of Labor.

“(2) No State's allotment under this section for any fiscal year shall be less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this section, the Secretary shall determine the allotment percentage for each State (including Guam and the Virgin Islands) for fiscal year 1984 which is the percentage that the State received under this Act for fiscal year 1983 of the total

amounts available for payments to all States for such fiscal year. For each succeeding fiscal year, the allotment percentage for each such State shall be the percentage that the State received under this Act for the preceding fiscal year of the total amounts available for allotments for all States for such fiscal year.

"(3) For each fiscal year, no State shall receive a total allotment under paragraphs (1) and (2) which is less than 0.28 percent of the total amount available for allotments for all States.

"(4) The Secretary shall reserve such amount, not to exceed 3 percent of the sums available for allotments under this section for each fiscal year, as shall be necessary to assure that each State will have a total allotment under this section sufficient to provide staff and other resources necessary to carry out employment service activities and related administrative and support functions on a statewide basis.

"(5) The Secretary shall, not later than March 15 of fiscal year 1983 and each succeeding fiscal year, provide preliminary planning estimates and shall, not later than May 15 of each such fiscal year, provide final planning estimates, showing each State's projected allocation for the following year.

Planning  
estimates.

29 USC 49f.

"SEC. 7. (a) Ninety percent of the sums allotted to each State pursuant to section 6 may be used—

"(1) for job search and placement services to job seekers including counseling, testing, occupational and labor market information, assessment, and referral to employers;

"(2) for appropriate recruitment services and special technical services for employers; and

"(3) for any of the following activities:

"(A) evaluation of programs;

"(B) developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;

"(C) providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;

"(D) developing and providing labor market and occupational information;

"(E) developing a management information system and compiling and analyzing reports therefrom; and

"(F) administering the work test for the State unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

"(b) Ten percent of the sums allotted to each State pursuant to section 6 shall be reserved for use in accordance with this subsection by the Governor of each such State to provide—

"(1) performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary, taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors;

"(2) services for groups with special needs, carried out pursuant to joint agreements between the employment service and the appropriate private industry council and chief elected offi-

cial or officials or other public agencies or private nonprofit organizations; and

“(3) the extra costs of exemplary models for delivering services of the types described in subsection (a).

“(c) In addition to the services and activities otherwise authorized by this Act, the United States Employment Service or any State agency designated under this Act may perform such other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the Secretary of Labor or with any Federal, State, or local public agency, or administrative entity under the Job Training Partnership Act, or private nonprofit organization.”.

*Ante*, p. 1322.

(d) Section 8 of such Act is amended—

Plans.  
29 USC 49g.

(1) by striking out “Director” each place it appears and inserting in lieu thereof “Secretary of Labor”;

(2) by designating the first sentence thereof as subsection (a);

(3) by designating the second and third sentences thereof as subsection (d);

(4) by designating the fourth sentence thereof as subsection (e); and

(5) by inserting after subsection (a) as amended by clause (1) of this subsection the following subsections:

“(b) Prior to submission of such plans to the Secretary—

“(1) the employment service shall develop jointly with each appropriate private industry council and chief elected official or officials for the service delivery area (designated under the Job Training Partnership Act) those components of such plans applicable to such area;

“(2) such plans shall be developed taking into consideration proposals developed jointly by the appropriate private industry council and chief elected official or officials in the service delivery area affected;

“(3) such plans shall be transmitted to the State job training coordinating council (established under such Act) which shall certify such plans if it determines (A) that the components of such plans have been jointly agreed to by the employment service and appropriate private industry council and chief elected official or officials; and (B) that such plans are consistent with the Governor’s coordination and special services plan under the Job Training Partnership Act;

“(4) if the State job training coordinating council does not certify that such plans meet the requirements of clauses (A) and (B) of paragraph (3), such plans shall be returned to the employment service for a period of thirty days for it to consider, jointly with the appropriate private industry council and chief elected official or officials, the council’s recommendations for modifying such plans; and

“(5) if the employment service and the appropriate private industry council and chief elected official or officials fail to reach agreement upon such components of such plans to be submitted finally to the Secretary, such plans submitted by the State agency shall be accompanied by such proposed modifications as may be recommended by any appropriate disagreeing private industry council and chief elected official or officials affected, and the State job training coordinating council shall transmit to the Secretary its recommendations for resolution thereof.

Review.	“(c) The Governor of the State shall be afforded the opportunity to review and transmit to the Secretary proposed modifications of such plans submitted.”;
29 USC 49h.	<p>(e) Section 9 of such Act is amended to read as follows:</p> <p>“Sec. 9. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the recipient under this Act. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.</p>
Audit.	<p>“(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of funds received under this Act.</p> <p>“(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.</p>
Report to Congress.	<p>“(b)(1) The Comptroller General of the United States shall evaluate the expenditures by States of funds received under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act. The Comptroller General shall conduct evaluations whenever determined necessary and shall periodically report to the Congress on the findings of such evaluations.</p> <p>“(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.</p>
Information availability.	<p>“(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State.</p>
Funds, repayment.	<p>“(c) Each State shall repay to the United States amounts found not to have been expended in accordance with this Act. No such finding shall be made except after notice and opportunity for a fair hearing. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act.”.</p>
29 USC 49i.	<p>(f) Section 10 of such Act is amended to read as follows:</p> <p>“Sec. 10. (a) Each State shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.</p>
Investigations.	<p>“(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any State receiving funds under this Act or any official of such State has violated any provision of this Act.</p> <p>“(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct investigations of the use of funds received by States under this Act.</p> <p>“(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any State.</p>

“(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request new compilation of information not readily available to such State.

“(c) Each State receiving funds under this Act shall—

“(1) make such reports concerning its operations and expenditures in such form and containing such information as shall be prescribed by the Secretary, and

“(2) establish and maintain a management information system in accordance with guidelines established by the Secretary designed to facilitate the compilation and analysis of programmatic and financial data necessary for reporting, monitoring, and evaluating purposes.”.

(g) Section 11(a) of such Act is amended by adding at the end thereof the following new sentence: “Nothing in this section shall be construed to prohibit the Governor from carrying out functions of such State advisory council through the State job training coordinating council in accordance with section 122(c) of the Job Training Partnership Act.”.

Restrictions.  
29 USC 49j.

*Ante*, p. 1339.

(h) Such Act is amended by adding at the end thereof the following new sections:

“SEC. 13. (a) The Secretary is authorized to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.

Performance  
standards.  
29 USC 49l.

“(b) Nothing in this Act shall be construed to prohibit the referral of any applicant to private agencies as long as the applicant is not charged a fee.

Restrictions.

“SEC. 14. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to provide funds through reimbursable agreements with the States to operate statistical programs which are essential for development of estimates of the gross national product and other national statistical series, including those related to employment and unemployment.

Appropriation  
authorization.  
29 USC 49l-1.

“SEC. 15. This Act may be cited as the ‘Wagner-Peyser Act’.”.

29 USC 49 note.

#### AMENDMENTS TO PART C OF TITLE IV OF THE SOCIAL SECURITY ACT

SEC. 502. (a) Section 432(d) of the Social Security Act is amended to read as follows:

42 USC 632.

“(d) In providing the training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available under this or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor (1) shall assure, when appropriate, that registrants under this part are referred for training and employment services under the Job Training Partnership Act, and (2) may use the funds appropriated under this part to provide programs required by this part through such other Acts to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal, State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to individuals under this part to the extent that such services and opportunities are not otherwise available on a nonreimbursable basis.”.

*Ante*, p. 1322.

(b)(1) Section 432(f) of such Act is amended—

42 USC 632.

(A) by amending paragraph (1) to read as follows:

*Ante*, p. 1322. “(f)(1) The Secretary of Labor shall utilize the services of each private industry council (as established under the Job Training Partnership Act) to identify and provide advice on the types of jobs available or likely to become available in the service delivery area of such council.”;

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out “Labor Market Advisory Council” in such paragraph and inserting in lieu thereof “private industry council”.

42 USC 633. (2) Section 433(b)(2) of such Act is amended by striking out “Labor Market Advisory Council (established pursuant to section 432(f))” and inserting in lieu thereof “private industry council under the Job Training Partnership Act”.

42 USC 632. (c)(1) Section 432(b)(1)(A) of such Act is amended by inserting before the comma at the end thereof the following: “, which may include intensive job search services, including participation in group job search activities”.

42 USC 633. (2) Section 433(a) of such Act is amended by striking out “unemployed fathers” and inserting in lieu thereof “unemployed parents who are the principal earners (as defined in section 407)”.

(3) Section 433 of such Act is amended by adding at the end thereof the following new subsection:

“(i) In planning for activities under this section, the chief executive officer of each State shall make every effort to coordinate such activities with activities provided by the appropriate private industry council and chief elected official or officials under the Job Training Partnership Act.”.

#### EARNINGS DISREGARD

95 Stat. 843. SEC. 503. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

42 USC 602. (1) by striking out “and” at the end of clause (iii);  
(2) in clause (iv), by striking out “already disregarded under the preceding provisions of this paragraph” and inserting in lieu thereof “disregarded under any other clause of this subparagraph”; and

(3) by adding at the end thereof the following new clause;

“(v) may disregard the income of any dependent child applying for or receiving aid to families with dependent children which is derived from a program carried out under the Job Training Partnership Act (as originally enacted), but only in such amounts, and for such period of time (not to exceed six months with respect to earned income) as the Secretary may provide in regulations; and”.

95 Stat. 845. (b) Section 402(a)(18) of such Act is amended by inserting “, other  
42 USC 602. than paragraph (8)(A)(v)” after “without application of paragraph (8)”.

## ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

**SEC. 504.** The Secretary shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section. 29 USC 1504.

Approved October 13, 1982.

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**LEGISLATIVE HISTORY—S. 2036 (H.R. 5320):**

**HOUSE REPORTS:** No. 97-537 accompanying H.R. 5320 (Comm. on Education and Labor and No. 97-889 (Comm. of Conference).

**SENATE REPORT** No. 97-469 (Comm. on Labor and Human Resources).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

July 1, considered and passed Senate.

Aug. 4, H.R. 5320 considered and passed Senate; S. 2036, amended, passed in lieu.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 18, No. 41 (1982):

Oct. 13, Presidential statement.

Public Law 97-301  
97th Congress

An Act

Oct. 13, 1982  
[S. 2852]

To require a separate family contribution schedule for Pell Grants for academic years 1983-1984 and 1984-1985, to establish restrictions upon the contents of such schedule, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Student Financial Assistance Technical Amendments Act of 1982".

Student  
Financial  
Assistance  
Technical  
Amendments  
Act of 1982.

20 USC 1001  
note.

20 USC 1070a  
note.

20 USC 1070a.

MAXIMUM PELL GRANT

SEC. 2. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 under such Act shall be \$1,800 or 50 percent of the cost of attendance (as defined under section 3 of this Act for academic year 1982-1983) at the institution at which the student is in attendance.

COST OF ATTENDANCE

20 USC 1070a  
note.

SEC. 3. Notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

SEPARATION OF PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM  
CAMPUS-BASED PROGRAMS

20 USC 1089  
note.

SEC. 4. The Secretary of Education shall establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.

20 USC 1070b;  
42 USC 2751;  
20 USC 1088.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR  
1983-1984

20 USC 1070a  
note.

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for the academic year 1983-1984.

20 USC 1070a.

(b) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for academic year 1982-1983 by 7.3 percent, and rounding the result to the nearest \$100.



(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

20 USC 1089.

(d) The modified family contribution schedule under this section shall be published in the Federal Register not later than 15 days after the date of enactment of this Act.

Publication in Federal Register.

**PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR  
1984-1985**

SEC. 6. (a)(1) Except as provided in subsection (b), the family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by April 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives on the date of such publication.

20 USC 1070a note.

20 USC 1070a.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than May 15, 1983, for the academic year 1984-1985.

Submittal to President of Senate and Speaker of the House of Representatives.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution schedule for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before June 15, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

Publication in Federal Register.

Effective date.

(c)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983-1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage

Earners and Clerical Workers published by the Department of Labor, and rounding the result to the nearest \$100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers is the change, expressed as a percent, between the arithmetic mean of such Index for the period from October 1, 1981, through September 30, 1982, and the arithmetic mean of such Index for the period from October 1, 1982, through September 30, 1983.

Publication in  
Federal  
Register.

(3) The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of this subsection immediately after publication by the Secretary of Labor of the Consumer Price Index for September 1983.

(d) If, under subsection (a) or (b), the family contribution schedule for academic year 1983-1984 is required to be the family contribution schedule for academic year 1984-1985, the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

Publication in  
Federal  
Register.

(e) The modified family contribution schedule under this section shall be published in the Federal Register not later than July 15, 1983.

#### VETERANS ELIGIBILITY FOR PELL GRANTS FOR ACADEMIC YEAR 1982-1983

20 USC 1070a  
note.  
*Ante*, p. 845.

SEC. 7. Notwithstanding any other provisions of law, such sums as may be necessary not to exceed \$30,000,000 of the amount appropriated by Public Law 97-257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97-92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum.

95 Stat. 1197,  
1198.

#### LINEAR REDUCTION OF PELL GRANTS

20 USC 1070a.

SEC. 8. (a) Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

“(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

“(I) the full amount for any student whose expected family contribution is \$200 or less, or

“(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than \$200.

“(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than \$100, no payment shall be made.”.

(b) The amendment made by subsection (a) of this section shall be effective with respect to the computation of Pell Grants under section 411 of the Higher Education Act of 1965 for academic year 1983-1984 and for succeeding academic years.

20 USC 1070a  
note.

20 USC 1070a.

**GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR  
THE PERIOD JULY 1, 1983, THROUGH JUNE 30, 1984**

SEC. 9. (a) Except as provided in subsections (b) and (c), the family contribution schedule for the period of instruction from July 1, 1983, through June 30, 1984, for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983.

20 USC 1078  
note.

20 USC 1071.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983, through June 30, 1984, to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than April 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

20 USC 1089.

**SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR  
FISCAL YEARS 1983, 1984, AND 1985**

SEC. 10. Notwithstanding section 413D(a) of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

20 USC 1070b-3  
note.  
20 USC 1070b-3.  
20 USC 1070b.

**COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983, 1984, AND  
1985**

SEC. 11. Notwithstanding subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal

42 USC 2752  
note.  
42 USC 2752.  
42 USC 2751.

42 USC 2751. year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS  
1983, 1984, AND 1985

20 USC 1087bb note.  
20 USC 1087bb.  
20 USC 1087aa. SEC. 12. Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

20 USC 1083a. SEC. 13. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.

"(c) The loan information required by this section shall be made available in a conspicuous form either in the note or other written evidence of the loan or in another written form signed by the borrower."

(2) The second sentence of such section is amended—

(A) by striking out "section" and inserting in lieu thereof "subsection"; and

(B) by redesignating clauses (5) through (7) as clauses (6) through (8), respectively, and by inserting after clause (4) the following new clause:

"(5) the amount of any other charges, including the origination fee, and the rate of the insurance premium charged to the student by the lender;"

20 USC 1087cc-1. (b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

“(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. The disclosures required by this subsection shall include—

20 USC 1087cc.

“(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

“(2) the dollar cost to the student borrower of the amount borrowed;

“(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

“(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.

“(c) The loan information required by this section shall be made available in a conspicuous form either in the note or other written evidence of the loan or in another written form signed by the borrower.”.

(2)(A) The first sentence of such section is amended by striking out “section 463(a)(7)” and inserting in lieu thereof “section 463(a)(8)”.

(B) The second sentence of such section is amended—

(A) by striking out “section” and inserting in lieu thereof “subsection”; and

(B) by redesignating clauses (5) through (7) as clauses (6) through (8), respectively, and by inserting after clause (4) the following new clause:

“(5) the amount of any other charges, including the origination fee, and the rate of the insurance premium charged to the student by the lender;”.

#### STUDENT LOAN MARKETING ASSOCIATION

SEC. 14. (a) The last sentence of section 439(l) of the Higher Education Act of 1965 is amended by striking out “September 30, 1982” and inserting in lieu thereof “September 30, 1984”.

95 Stat. 1610.

(b) Section 439(o) is amended by adding at the end thereof the following new paragraph:

Termination.  
20 USC 1087-2.

“(5) The authority of the Association to make loans under this section shall terminate on August 1, 1983.”.

## HIGHER EDUCATION SURVEY DATA

20 USC 1221e-1.  
note.

SEC. 15. The National Center for Education Statistics shall collect and publish for academic years 1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section. The results of such surveys shall be stated so as to display such data by congressional district.

Approved October 13, 1982.

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LEGISLATIVE HISTORY—S. 2852 (H.R. 7048):

HOUSE REPORTS: No. 97-814 accompanying H.R. 7048 (Comm. on Education and Labor) and No. 97-887 (Comm. of Conference).

SENATE REPORTS: No. 97-538 (Comm. on Labor and Human Resources) and No. 97-589 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 16, considered and passed Senate.

Sept. 20, 22, H.R. 7048 considered and passed House; S. 2852, amended, passed in lieu.

Sept. 27, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):

Oct. 14, Presidential statement.

Public Law 97-302  
97th Congress

An Act

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission.

Oct 13, 1982

[H R 3881]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a)(1) Subject to subsection (b), the Secretary of Agriculture shall release on behalf of the United States, with respect to lands within the Southern Arkansas Land Utilization Project (AK-LU-22) conveyed by the United States to the Arkansas Forestry Commission (hereinafter referred to as the "Commission") by a quitclaim deed dated February 11, 1980, the condition in such deed which requires that such lands be used for public purposes, and if not so used, that the lands revert to and revest in the United States.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release authorized in paragraph (1).

(b) The Secretary of Agriculture shall release the condition referred to in subsection (a)(1) only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the Commission in which the Commission, in consideration of the release of such condition as to such lands, agrees that—

(1) the Commission will not exchange any parcel or tract of the lands referred to in subsection (a)(1), or any mineral or other interest in any such parcel or tract for other property (real or personal) unless—

(A) the fair market value of such property is approximately equal to the fair market value of such parcel or tract or interest therein, and

(B) after such exchange, such property will be used exclusively for public purposes, and

(2) the Commission will not sell, lease, or otherwise dispose of any parcel or tract of such lands or any mineral or other interest in any such parcel or tract unless the proceeds thereof are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes within the authority of the Commission, and

(C) equal to the fair market value of the fee, leasehold, interest in such parcel or tract, or other property right which is the subject of such sale, lease, or other disposition.

SEC. 2. (a) Subsequent to any release executed by the Secretary of Agriculture under section 1, with respect to lands in Nevada County, Arkansas, described as the southeast quarter southwest quarter and southwest quarter southeast quarter, section 27, township 12 south, range 20 west (aggregating 80 acres more or less) the

Arkansas  
Forestry  
Commission  
Certain lands,  
conveyance  
Southern  
Arkansas Land  
Utilization  
Project

Nevada County,  
Ark.

Commission may apply to the Secretary of the Interior seeking to acquire all the undivided mineral interests of the United States in the lands to which such release applied, and the Secretary of the Interior shall, subject to valid existing rights and subject to subsection (b), convey such mineral interests as requested.

(b) The Secretary of the Interior shall not convey the undivided mineral interests of the United States in any lands as requested in an application filed by the Commission under subsection (a) unless—

(1) such application is accompanied by a sum of money which the Secretary of the Interior determines is necessary to pay the administrative costs involved in conveying such mineral interests to the Commission, including the costs of determining the mineral character of such lands and the costs of establishing the fair market value of such mineral interests, and

(2) the Commission, in consideration of such conveyance, pays to the Secretary of the Interior—

(A) \$1, in the case of any such lands determined by the Secretary of the Interior to have no mineral value and to be under no active mineral development or leasing, or

(B) the fair market value of such mineral interests (as determined by the Secretary of the Interior), in the case of any such lands not subject to subparagraph (A).

Approved October 13, 1982.

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**LEGISLATIVE HISTORY—H.R. 3881:**

HOUSE REPORTS: No. 97-447 Pt. I (Comm. on Agriculture), Pt. II (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-570 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 17, considered and passed House.

Sept. 29, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):  
Oct. 14, Presidential statement.



Public Law 97-303  
97th Congress

An Act

To clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes.

Oct. 13, 1982

[H.R. 6156]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)) is amended by inserting after “mineral rights,” the following: “any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,”.

Securities and  
Exchange  
Commission,  
jurisdiction  
clarification.

SEC. 2. Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by inserting after “for a security,” the following: “any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,”.

SEC. 3. Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended—

(1) by striking out “this section” in subsection (f) and inserting in lieu thereof “subsection (a)”;

(2) by inserting after subsection (f) the following new subsection:

Authority to  
regulate trading.

“(g) Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency (but not, with respect to any of the foregoing, an option on a contract for future delivery).”.

SEC. 4. Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended by adding at the end thereof the following new sentence: “No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of ‘bucket shops’ or other similar or related activities, shall invalidate any put, call, straddle, option, privilege, or other security, or apply to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such instrument, if such instrument is traded pursuant to rules and regulations of a self-regulatory organization that are filed with the Commission pursuant to section 19(b) of this Act.”.

15 USC 79s

SEC. 5. Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)) is amended by inserting after “mineral rights,” the following: “any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value

thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency.”.

SEC. 6. Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amended by inserting after “mineral rights,” the following: “any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,”.

15 USC 78lll.

SEC. 7. Section 16(14) of the Securities Investor Protection Act (15 U.S.C. 78lll(14)) is amended—

(1) by inserting after “Securities Act of 1933),” the following: “any put, call, straddle, option, or privilege on any security, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,”; and

(2) by striking out “The” in the last sentence and inserting in lieu thereof “Except as specifically provided above, the”.

Approved October 13, 1982.

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LEGISLATIVE HISTORY—H.R. 6156 (S. 2260):

HOUSE REPORTS: No. 97-626 Pt. I (Comm. on Energy and Commerce), Pt. II (Comm. on Agriculture).

SENATE REPORT No. 97-390 accompanying S. 2260 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 23, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-304  
97th Congress

An Act

To authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes.

Oct. 13, 1982

[H.R. 6133]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Endangered Species Act Amendments of 1982".

Endangered  
Species Act  
Amendments of  
1982

SEC. 2. LISTING PROCESS.

16 USC 1531  
note.

(a) Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating subparagraphs (1) through (5) of paragraph (1) as subparagraphs (A) through (E), respectively;

(B) by amending that part of paragraph (1) which precedes subparagraph (A) (as so redesignated) by inserting "promulgated in accordance with subsection (b)" immediately after "shall by regulation";

(C) by striking out "sporting," in paragraph (1)(B) (as so redesignated) and inserting in lieu thereof "recreational,";

(D) by striking out the last two sentences in paragraph (1); and

(E) by adding at the end thereof the following new paragraph:

Regulations.

"(3) The Secretary, by regulation promulgated in accordance with subsection (b) and to the maximum extent prudent and determinable—

"(A) shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat; and

"(B) may, from time-to-time thereafter as appropriate, revise such designation."

(2) Subsection (b) is amended to read as follows:

"(b) BASIS FOR DETERMINATIONS.—(1)(A) The Secretary shall make determinations required by subsection (a)(1) solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas.

"(B) In carrying out this section, the Secretary shall give consideration to species which have been—

"(i) designated as requiring protection from unrestricted commerce by any foreign nation, or pursuant to any international agreement; or

“(ii) identified as in danger of extinction, or likely to become so within the foreseeable future, by any State agency or by any agency of a foreign nation that is responsible for the conservation of fish or wildlife or plants.

“(2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

Petition,  
findings.

“(3)(A) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to add a species to, or to remove a species from, either of the lists published under subsection (c), the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If such a petition is found to present such information, the Secretary shall promptly commence a review of the status of the species concerned. The Secretary shall promptly publish each finding made under this subparagraph in the Federal Register.

Review.

Publications in  
Federal  
Register.

“(B) Within 12 months after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

“(i) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the Federal Register.

“(ii) The petitioned action is warranted, in which case the Secretary shall promptly publish in the Federal Register a general notice and the complete text of a proposed regulation to implement such action in accordance with paragraph (5).

“(iii) The petitioned action is warranted, but that—

“(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded by pending proposals to determine whether any species is an endangered species or a threatened species, and

“(II) expeditious progress is being made to add qualified species to either of the lists published under subsection (c) and to remove from such lists species for which the protections of the Act are no longer necessary,

in which case the Secretary shall promptly publish such finding in the Federal Register, together with a description and evaluation of the reasons and data on which the finding is based.

“(C)(i) A petition with respect to which a finding is made under subparagraph (B)(iii) shall be treated as a petition that is resubmitted to the Secretary under subparagraph (A) on the date of such finding and that presents substantial scientific or commercial information that the petitioned action may be warranted.

“(ii) Any negative finding described in subparagraph (A) and any finding described in subparagraph (B)(i) or (iii) shall be subject to judicial review. Judicial review.

“(D)(i) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Secretary shall promptly publish such finding in the Federal Register. Petition, findings. Publications in Federal Register.

“(ii) Within 12 months after receiving a petition that is found under clause (i) to present substantial information indicating that the requested revision may be warranted, the Secretary shall determine how he intends to proceed with the requested revision, and shall promptly publish notice of such intention in the Federal Register.

“(4) Except as provided in paragraphs (5) and (6) of this subsection, the provisions of section 553 of title 5, United States Code (relating to rulemaking procedures), shall apply to any regulation promulgated to carry out the purposes of this Act.

“(5) With respect to any regulation proposed by the Secretary to implement a determination, designation, or revision referred to in subsection (a)(1) or (3), the Secretary shall—

“(A) not less than 90 days before the effective date of the regulation—

“(i) publish a general notice and the complete text of the proposed regulation in the Federal Register, and Notice.

“(ii) give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;

“(B) insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to each foreign nation in which the species is believed to occur or whose citizens harvest the species on the high seas, and invite the comment of such nation thereon;

“(C) give notice of the proposed regulation to such professional scientific organizations as he deems appropriate;

“(D) publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur; and

“(E) promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of publication of general notice. Hearings.

“(6)(A) Within the one-year period beginning on the date on which general notice is published in accordance with paragraph (5)(A)(i) regarding a proposed regulation, the Secretary shall publish in the Federal Register— Publication in Federal Register.

“(i) if a determination as to whether a species is an endangered species or a threatened species, or a revision of critical habitat, is involved, either—

“(I) a final regulation to implement such determination,

“(II) a final regulation to implement such revision or a finding that such revision should not be made,

“(III) notice that such one-year period is being extended under subparagraph (B)(i), or

“(IV) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based; or

“(ii) subject to subparagraph (C), if a designation of critical habitat is involved, either—

“(I) a final regulation to implement such designation, or

“(II) notice that such one-year period is being extended under such subparagraph.

Additional  
information,  
extension period.

“(B)(i) If the Secretary finds with respect to a proposed regulation referred to in subparagraph (A)(i) that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, the Secretary may extend the one-year period specified in subparagraph (A) for not more than six months for purposes of soliciting additional data.

“(ii) If a proposed regulation referred to in subparagraph (A)(i) is not promulgated as a final regulation within such one-year period (or longer period if extension under clause (i) applies) because the Secretary finds that there is not sufficient evidence to justify the action proposed by the regulation, the Secretary shall immediately withdraw the regulation. The finding on which a withdrawal is based shall be subject to judicial review. The Secretary may not propose a regulation that has previously been withdrawn under this clause unless he determines that sufficient new information is available to warrant such proposal.

Judicial  
review.

Publication in  
Federal  
Register.

“(iii) If the one-year period specified in subparagraph (A) is extended under clause (i) with respect to a proposed regulation, then before the close of such extended period the Secretary shall publish in the Federal Register either a final regulation to implement the determination or revision concerned, a finding that the revision should not be made, or a notice of withdrawal of the regulation under clause (ii), together with the finding on which the withdrawal is based.

“(C) A final regulation designating critical habitat of an endangered species or a threatened species shall be published concurrently with the final regulation implementing the determination that such species is endangered or threatened, unless the Secretary deems that—

“(i) it is essential to the conservation of such species that the regulation implementing such determination be promptly published; or

“(ii) critical habitat of such species is not then determinable, in which case the Secretary, with respect to the proposed regulation to designate such habitat, may extend the one-year period specified in subparagraph (A) by not more than one additional year, but not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.

“(7) Neither paragraph (4), (5), or (6) of this subsection nor section 553 of title 5, United States Code, shall apply to any regulation issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife or plants, but only if—

“(A) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary; and

Publication in  
Federal  
Register.

“(B) in the case such regulation applies to resident species of fish or wildlife, or plants, the Secretary gives actual notice of such regulation to the State agency in each State in which such species is believed to occur.

Such regulation shall, at the discretion of the Secretary, take effect immediately upon the publication of the regulation in the Federal Register. Any regulation promulgated under the authority of this paragraph shall cease to have force and effect at the close of the 240-day period following the date of publication unless, during such 240-day period, the rulemaking procedures which would apply to such regulation without regard to this paragraph are complied with. If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best appropriate data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it.

Regulations,  
effective date.

“(8) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulation; and if such regulation designates or revises critical habitat, such summary shall, to the maximum extent practicable, also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be affected by such designation.”.

Data summary.

(3) Subsection (c) is amended—

(A) by amending paragraph (1) by striking out “, and from time to time he may by regulation revise,” in the first sentence thereof, and by adding at the end thereof the following new sentence: “The Secretary shall from time to time revise each list published under the authority of this subsection to reflect recent determinations, designations, and revisions made in accordance with subsections (a) and (b).”;

(B) by striking out paragraphs (2) and (3) thereof; and

(C) by redesignating paragraph (4) thereof as paragraph (2).

(4) Such section 4 is further amended—

(A) by amending subsection (d) by striking out “section 6(a)” and inserting in lieu thereof “section 6(c)”;

(B) by striking out subsection (f) thereof;

(C) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively;

(D) by amending the second sentence of subsection (f) (as redesignated by subparagraph (C)) by striking out “recovery plans,” and inserting in lieu thereof “recovery plans (1) shall, to the maximum extent practicable, give priority to those endangered species or threatened species most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity, and (2)”;

(E) by amending subsection (g) (as redesignated by subparagraph (C))—

16 USC 1533.

(i) by striking out “subsection (c)(2)” in paragraph (1) and inserting in lieu thereof “subsection (b)(3)”,

(ii) by striking out “for listing” in paragraph (3) and inserting in lieu thereof “under subsection (a)(1) of this section”, and

(iii) by striking out “subsection (g)” in paragraph (4) and inserting in lieu thereof “subsection (f)”; and

(F) by inserting at the end thereof the following new subsection:

“(h) If, in the case of any regulation proposed by the Secretary under the authority of this section, a State agency to which notice thereof was given in accordance with subsection (b)(5)(A)(ii) files comments disagreeing with all or part of the proposed regulation, and the Secretary issues a final regulation which is in conflict with such comments, or if the Secretary fails to adopt a regulation pursuant to an action petitioned by a State agency under subsection (b)(3), the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency’s comments or petition.”

(b)(1) Any petition filed under section 4(c)(2) of the Endangered Species Act of 1973 (as in effect on the day before the date of the enactment of this Act) and any regulation proposed under section 4(f) of such Act of 1973 (as in effect on such day) that is pending on such date of enactment shall be treated as having been filed or proposed on such date of enactment under section 4(b) of such Act of 1973 (as amended by subsection (a)); and the procedural requirements specified in such section 4(b) (as so amended) regarding such petition or proposed regulation shall be deemed to be complied with to the extent that like requirements under such section 4 (as in effect before the date of the enactment of this Act) were complied with before such date of enactment.

(2) Any regulation proposed after, or pending on, the date of the enactment of this Act to designate critical habitat for a species that was determined before such date of enactment to be endangered or threatened shall be subject to the procedures set forth in section 4 of such Act of 1973 (as amended by subsection (a)) for regulations proposing revisions to critical habitat instead of those for regulations proposing the designation of critical habitat.

(3) Any list of endangered species or threatened species (as in effect under section 4(c) of such Act of 1973 on the day before the date of the enactment of this Act) shall remain in effect unless and until determinations regarding species and designations and revisions of critical habitats that require changes to such list are made in accordance with subsection (b)(5) of such Act of 1973 (as added by subsection (a)).

(4) Section 4(a)(3)(A) of such Act of 1973 (as added by subsection (a)) shall not apply with respect to any species which was listed as an endangered species or a threatened species before November 10, 1978.

### SEC. 3. COOPERATION WITH THE STATES.

Section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended—

(1) by striking out “66½ per centum” in subsection (d)(2)(i) thereof and inserting in lieu thereof “75 percent”; and

(2) by striking out “75 per centum” in subsection (d)(2)(ii) thereof and inserting in lieu thereof “90 percent”.

Comments.  
Written  
statement to  
agency.

16 USC 1533  
note.  
*Ante*, p. 1411.

Restrictions.



## SEC. 4. INTERAGENCY COOPERATION AND COMMITTEE EXEMPTIONS.

(a) Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended as follows:

- (1) Subsection (a) is amended by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

“(3) Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the area affected by his project and that implementation of such action will likely affect such species.”.

- (2) Subsection (b) is amended to read as follows:

“(b) OPINION OF SECRETARY.—(1)(A) Consultation under subsection (a)(2) with respect to any agency action shall be concluded within the 90-day period beginning on the date on which initiated or, subject to subparagraph (B), within such other period of time as is mutually agreeable to the Secretary and the Federal agency.

“(B) In the case of an agency action involving a permit or license applicant, the Secretary and the Federal agency may not mutually agree to conclude consultation within a period exceeding 90 days unless the Secretary, before the close of the 90th day referred to in subparagraph (A)—

Consultation  
period.

“(i) if the consultation period proposed to be agreed to will end before the 150th day after the date on which consultation was initiated, submits to the applicant a written statement setting forth—

“(I) the reasons why a longer period is required,

“(II) the information that is required to complete the consultation, and

“(III) the estimated date on which consultation will be completed; or

“(ii) if the consultation period proposed to be agreed to will end 150 or more days after the date on which consultation was initiated, obtains the consent of the applicant to such period. The Secretary and the Federal agency may mutually agree to extend a consultation period established under the preceding sentence if the Secretary, before the close of such period, obtains the consent of the applicant to the extension.

“(2) Consultation under subsection (a)(3) shall be concluded within such period as is agreeable to the Secretary, the Federal agency, and the applicant concerned.

“(3)(A) Promptly after conclusion of consultation under paragraph (2) or (3) of subsection (a), the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action.

“(B) Consultation under subsection (a)(3), and an opinion issued by the Secretary incident to such consultation, regarding an agency action shall be treated respectively as a consultation under subsec-

Review and  
notification.

Written  
statement to  
agency.

tion (a)(2), and as an opinion issued after consultation under such subsection, regarding that action if the Secretary reviews the action before it is commenced by the Federal agency and finds, and notifies such agency, that no significant changes have been made with respect to the action and that no significant change has occurred regarding the information used during the initial consultation.

"(4) If after consultation under subsection (a)(2), the Secretary concludes that—

"(A) the agency action will not violate such subsection, or offers reasonable and prudent alternatives which the Secretary believes would not violate such subsection; and

"(B) the taking of an endangered species or a threatened species incidental to the agency action will not violate such subsection;

the Secretary shall provide the Federal agency and the applicant concerned, if any, with a written statement that—

"(i) specifies the impact of such incidental taking on the species,

"(ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact, and

"(iii) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clause (ii)."

(3) Subsection (c) is amended by amending the penultimate sentence in paragraph (1) by inserting "except that if a permit or license applicant is involved, the 180-day period may not be extended unless such agency provides the applicant, before the close of such period, with a written statement setting forth the estimated length of the proposed extension and the reasons therefor" immediately after "agency" and before the parenthesis.

(4) Subsection (e)(10) is amended by striking out the first sentence thereof.

(5) Subsection (g) is amended as follows:

(A) The sideheading is amended to read as follows:  
"APPLICATION FOR EXEMPTION AND REPORT TO THE COMMITTEE.—"

(B) The second sentence of paragraph (1) is amended to read as follows: "An application for an exemption shall be considered initially by the Secretary in the manner provided for in this subsection, and shall be considered by the Committee for a final determination under subsection (h) after a report is made pursuant to paragraph (5)."

(C) Paragraph (2) is amended—

(i) by striking out the first sentence of subparagraph

(A) and inserting in lieu thereof the following: "An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f), not later than 90 days after the completion of the consultation process; except that, in the case of any agency action involving a permit or license applicant, such application shall be submitted not later than 90 days after the date on which the Federal agency concerned takes final agency action with respect to the issuance of the permit or license. For purposes of the

Submittal to  
Secretary.

"Final agency  
action."

preceding sentence, the term 'final agency action' means (i) a disposition by an agency with respect to the issuance of a permit or license that is subject to administrative review, whether or not such disposition is subject to judicial review; or (ii) if administrative review is sought with respect to such disposition, the decision resulting after such review."; and

(ii) by amending subparagraph (B)—

(I) by inserting "(i)" immediately after "promptly",

(II) by striking out "to the review board to be established under paragraph (3) and", and

(III) by inserting "; and (ii) publish notice of receipt of the application in the Federal Register, including a summary of the information contained in the application and a description of the agency action with respect to which the application for exemption has been filed" immediately before the period.

(D) Paragraphs (3), (4), (9), and (11) are repealed.

(E) Paragraph (5) is redesignated as paragraph (3) and is further amended to read as follows:

"(3) The Secretary shall within 20 days after the receipt of an application for exemption, or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary—

"(A) determine that the Federal agency concerned and the exemption applicant have—

"(i) carried out the consultation responsibilities described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2);

"(ii) conducted any biological assessment required by subsection (c); and

"(iii) to the extent determinable within the time provided herein, refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d); or

"(B) deny the application for exemption because the Federal agency concerned or the exemption applicant have not met the requirements set forth in subparagraph (A)(i), (ii), and (iii). The denial of an application under subparagraph (B) shall be considered final agency action for purposes of chapter 7 of title 5, United States Code."

(F) Paragraph (6) is redesignated as paragraph (4) and is further amended to read as follows:

"(4) If the Secretary determines that the Federal agency concerned and the exemption applicant have met the requirements set forth in paragraph (3)(A)(i), (ii), and (iii) he shall, in consultation with the Members of the Committee, hold a hearing on the application for exemption in accordance with sections 554, 555, and 556 (other than subsection (b)(1) and (2) thereof) of title 5, United States Code, and prepare the report to be submitted pursuant to paragraph (5)."

(G) Paragraph (7) is redesignated as paragraph (5) and is further amended—

Publication in  
Federal  
Register.

Application,  
determination.

5 USC 701 *et seq.*  
Hearings.

Report to  
Committee.

(i) by striking out that part which precedes subparagraph (A) and inserting in lieu thereof “Within 140 days after making the determinations under paragraph (3) or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary, the Secretary shall submit to the Committee a report discussing—”;

(ii) by striking out the period immediately after “by the Committee” in subparagraph (C) and inserting in lieu thereof “; and”;

(iii) by adding at the end thereof the following:

“(D) whether the Federal agency concerned and the exemption applicant refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).”.

(H) Paragraph (8) is redesignated as paragraph (6).

(I) Paragraph (10) is redesignated as paragraph (7) and is amended to read as follows:

“(7) Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Secretary to assist him in carrying out his duties under this section.”.

(J) Paragraph (12) is redesignated as paragraph (8) and is further amended by striking out “of review boards” and inserting in lieu thereof “resulting from activities pursuant to this subsection”.

(6) Subsection (h)(1) is amended—

(A) by striking out “90 days of receiving the report of the review board under subsection (g)(7)” in the matter preceding subparagraph (A) and inserting in lieu thereof “30 days after receiving the report of the Secretary pursuant to subsection (g)(5)”;

(B) by striking out “review board” in subparagraph (A) and inserting in lieu thereof “Secretary, the record of the hearing held under subsection (g)(4)”;

(C) by striking out “and” at the end of subparagraph (A)(ii);

(D) by inserting immediately after subparagraph (A)(iii) the following:

“(iv) neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources prohibited by subsection (d); and”.

(7) Subsection (o) is amended to read as follows:

“(o) Notwithstanding sections 4(d) and 9(a)(1)(B) and (C) or any regulation promulgated to implement either such section—

“(1) any action for which an exemption is granted under subsection (h) shall not be considered to be a taking of any endangered species or threatened species with respect to any activity which is necessary to carry out such action; and

“(2) any taking that is in compliance with the terms and conditions specified in a written statement provided under subsection (b)(4)(iii) shall not be considered to be a taking of the species concerned.”.

(b) Paragraph (11) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is repealed.

## SEC. 5. CONVENTION IMPLEMENTATION.

Section 8A of the Endangered Species Act of 1973 (16 U.S.C. 1537a) is amended—

(1) by amending subsection (c) by inserting “(1)” immediately after “SCIENTIFIC AUTHORITY FUNCTIONS.—”, and by adding at the end thereof the following new paragraph:

“(2) The Secretary shall base the determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.”;

(2) by amending subsection (d) to read as follows:

“(d) RESERVATIONS BY THE UNITED STATES UNDER CONVENTION.—If the United States votes against including any species in Appendix I or II of the Convention and does not enter a reservation pursuant to paragraph (3) of Article XV of the Convention with respect to that species, the Secretary of State, before the 90th day after the last day on which such a reservation could be entered, shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives, and to the Committee on the Environment and Public Works of the Senate, a written report setting forth the reasons why such a reservation was not entered.”; and

(3) by amending subsection (e) to read as follows:

“(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—(1) The Secretary of the Interior (hereinafter in this subsection referred to as the ‘Secretary’), in cooperation with the Secretary of State, shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354, T.S. 982, hereinafter in this subsection referred to as the ‘Western Convention’). In the discharge of these responsibilities, the Secretary and the Secretary of State shall consult with the Secretary of Agriculture, the Secretary of Commerce, and the heads of other agencies with respect to matters relating to or affecting their areas of responsibility.

“(2) The Secretary and the Secretary of State shall, in cooperation with the contracting parties to the Western Convention and, to the extent feasible and appropriate, with the participation of State agencies, take such steps as are necessary to implement the Western Convention. Such steps shall include, but not be limited to—

“(A) cooperation with contracting parties and international organizations for the purpose of developing personnel resources and programs that will facilitate implementation of the Western Convention;

“(B) identification of those species of birds that migrate between the United States and other contracting parties, and the habitats upon which those species depend, and the implementation of cooperative measures to ensure that such species will not become endangered or threatened; and

“(C) identification of measures that are necessary and appropriate to implement those provisions of the Western Convention which address the protection of wild plants.

“(3) No later than September 30, 1985, the Secretary and the Secretary of State shall submit a report to Congress describing those steps taken in accordance with the requirements of this subsection

Report to  
congressional  
committees.

T.S. 981.

Report to  
Congress.

and identifying the principal remaining actions yet necessary for comprehensive and effective implementation of the Western Convention.

“(4) The provisions of this subsection shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate resident fish or wildlife under State law or regulations.”.

Effective date.  
16 USC 1537a  
note.

(b) The amendment made by paragraph (1) of subsection (a) shall take effect January 1, 1981.

#### SEC. 6. EXPERIMENTAL POPULATIONS AND OTHER EXCEPTIONS.

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) PERMITS.—(1) The Secretary may permit, under such terms and conditions as he shall prescribe—

16 USC 1538.

“(A) any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species, including, but not limited to, acts necessary for the establishment and maintenance of experimental populations pursuant to subsection (j); or

*Post*, p. 1424.

“(B) any taking otherwise prohibited by section 9(a)(1)(B) if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Permit issuance  
Conservation  
plan.

“(2)(A) No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefor submits to the Secretary a conservation plan that specifies—

“(i) the impact which will likely result from such taking;

“(ii) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;

“(iii) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and

“(iv) such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

“(B) If the Secretary finds, after opportunity for public comment, with respect to a permit application and the related conservation plan that—

“(i) the taking will be incidental;

“(ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;

“(iii) the applicant will ensure that adequate funding for the plan will be provided;

“(iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

“(v) the measures, if any, required under subparagraph (A)(iv) will be met;

and he has received such other assurances as he may require that the plan will be implemented, the Secretary shall issue the permit. The permit shall contain such terms and conditions as the Secretary deems necessary or appropriate to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as the Secretary deems necessary for determining whether such terms and conditions are being complied with.

“(C) The Secretary shall revoke a permit issued under this paragraph if he finds that the permittee is not complying with the terms and conditions of the permit.”

Permit  
revocation.

(2) Subsection (d) is amended by striking out “subsections (a)” and inserting in lieu thereof “subsections (a)(1)(A)”.

(3) Subsection (f) is amended—

(A) by amending paragraph (1)(B) by inserting “substantial” immediately before “etching” and before “carving”, and by adding at the end thereof the following new sentence: “For purposes of this subsection, polishing or the adding of minor superficial markings does not constitute substantial etching, engraving, or carving.”; and

(B) by adding at the end thereof the following new paragraph:

“(9)(A) The Secretary shall carry out a comprehensive review of the effectiveness of the regulations prescribed pursuant to paragraph (5) of this subsection—

Review

“(i) in insuring that pre-Act finished scrimshaw products, or the raw materials for such products, have been adequately accounted for and not disposed of contrary to the provisions of this Act; and

“(ii) in preventing the commingling of unlawfully imported or acquired marine mammal products with such exempted products either by persons to whom certificates of exemption have been issued under paragraph (4) of this subsection or by subsequent purchasers from such persons.

“(B) In conducting the review required under subparagraph (A), the Secretary shall consider, but not be limited to—

“(i) the adequacy of the reporting and records required of exemption holders;

“(ii) the extent to which such reports and records are subject to verification;

“(iii) methods for identifying individual pieces of scrimshaw products and raw materials and for preventing commingling of exempted materials from those not subject to such exemption; and

“(iv) the retention of unworked materials in controlled-access storage.

The Secretary shall submit a report of such review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on the Environment and Public Works of the Senate and make it available to the general public. Based on such review, the Secretary shall, on or before October 1, 1983, propose and adopt such revisions to such regulations as he deems necessary and appropriate to carry out this paragraph. Upon publication of such revised regulations, the Secretary may renew for a further period of not to exceed three years any certificate of exemption previously renewed under paragraph (8) of this subsection, subject to such new terms and conditions as are necessary and appropriate under the revised regulations; except that any certificate of exemption that would, but for this clause, expire on or after the date of enactment of this paragraph and before the date of the adoption of such regulations may be extended until such time after the date of adoption as may be necessary for purposes of applying such regulations to the certificate. Notwithstanding the foregoing, however, no person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce any pre-Act finished scrimshaw product unless

Report to  
congressional  
committees.  
Public  
availability.

Certificate of  
exemption,  
renewal.

such person has been issued a valid certificate of exemption by the Secretary under this subsection and unless such product or the raw material for such product was held by such person on the date of the enactment of this paragraph.”

(4)(A) Subsection (h)(1) is amended—

(i) by striking out “(other than scrimshaw)”;

(ii) by amending subparagraph (A) to read as follows:

“(A) is not less than 100 years of age;”

(B) The amendment made by subparagraph (A) shall take effect January 1, 1981.

(5) Subsection (i) is amended to read as follows:

“(i) **NONCOMMERCIAL TRANSSHIPMENTS.**—Any importation into the United States of fish or wildlife shall, if—

“(1) such fish or wildlife was lawfully taken and exported from the country of origin and country of reexport, if any;

“(2) such fish or wildlife is in transit or transshipment through any place subject to the jurisdiction of the United States en route to a country where such fish or wildlife may be lawfully imported and received;

“(3) the exporter or owner of such fish or wildlife gave explicit instructions not to ship such fish or wildlife through any place subject to the jurisdiction of the United States, or did all that could have reasonably been done to prevent transshipment, and the circumstances leading to the transshipment were beyond the exporter’s or owner’s control;

“(4) the applicable requirements of the Convention have been satisfied; and

“(5) such importation is not made in the course of a commercial activity,

be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act while such fish or wildlife remains in the control of the United States Customs Service.”

(6) At the end thereof insert the following new subsection:

“(j) **EXPERIMENTAL POPULATIONS.**—(1) For purposes of this subsection, the term ‘experimental population’ means any population (including any offspring arising solely therefrom) authorized by the Secretary for release under paragraph (2), but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species.

“(2)(A) The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species outside the current range of such species if the Secretary determines that such release will further the conservation of such species.

“(B) Before authorizing the release of any population under subparagraph (A), the Secretary shall by regulation identify the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence of an endangered species or a threatened species.

“(C) For the purposes of this Act, each member of an experimental population shall be treated as a threatened species; except that—

“(i) solely for purposes of section 7 (other than subsection (a)(1) thereof), an experimental population determined under subparagraph (B) to be not essential to the continued existence of a species shall be treated, except when it occurs in an area within the National Wildlife Refuge System or the National

Effective date.  
16 USC 1539  
note.

Release of  
endangered  
species.

16 USC 1536.



Park System, as a species proposed to be listed under section 4; *Ante*, p. 1411.  
and

“(ii) critical habitat shall not be designated under this Act for any experimental population determined under subparagraph (B) to be not essential to the continued existence of a species.

“(3) The Secretary, with respect to populations of endangered species or threatened species that the Secretary authorized, before the date of the enactment of this subsection, for release in geographical areas separate from the other populations of such species, shall determine by regulation which of such populations are an experimental population for the purposes of this subsection and whether or not each is essential to the continued existence of an endangered species or a threatened species.”.

#### SEC. 7. ENFORCEMENT.

Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended as follows:

(1) Subsection (e) is amended by adding at the end thereof the following new paragraph:

“(6) The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this Act or regulation issued under authority thereof.”.

(2) Subsection (g) is amended—

(A) by amending paragraph (1)—

(i) by striking out “any State.” in subparagraph (B) and inserting in lieu thereof “any State; or”,

(ii) by inserting immediately after subparagraph (B) the following new subparagraph:

“(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under section 4 which is not discretionary with the Secretary.”, and *Ante*, p. 1411.

(iii) by amending the first sentence following subparagraph (C) (as added by clause (ii) of this subparagraph), by inserting “or to order the Secretary to perform such act or duty,” immediately after “any such provision or regulation,”; and

(B) by amending paragraph (2) by adding the following new subparagraph immediately after subparagraph (B) thereof:

“(C) No action may be commenced under subparagraph (1)(C) of this section prior to sixty days after written notice has been given to the Secretary; except that such action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife or plants.”. *Written notification.*

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

##### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 15. (a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

“(1) not to exceed \$27,000,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of the Interior to carry

out such functions and responsibilities as it may have been given under this Act;

“(2) not to exceed \$3,500,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

“(3) not to exceed \$1,850,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

16 USC 1535. “(b) COOPERATION WITH STATES.—For the purposes of section 6, there are authorized to be appropriated not to exceed \$6,000,000 for each of fiscal years 1983, 1984, and 1985.

*Ante*, p. 1417. “(c) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g), and (h) not to exceed \$600,000 for each of fiscal years 1983, 1984, and 1985.

*Ante*, p. 1421. “(d) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed \$150,000 for each of fiscal years 1983 and 1984, and not to exceed \$300,000 for fiscal year 1985, and such sums shall remain available until expended.”

16 USC 1535, 1536. (b) Sections 6(i) and 7(q) of such Act of 1973 are repealed.

#### SEC. 9. MISCELLANEOUS AMENDMENTS.

16 USC 1531. (a) Section 2(c) of the Endangered Species Act of 1973 (16 U.S.C. 1532(c)) is amended—

(1) by inserting “(1)” immediately before “It is”; and

(2) by adding the following new paragraph:

“(2) It is further declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.”

(b) Section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1538) is amended—

(1) by amending subsection (a)(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting the following new subparagraph immediately after subparagraph (A) thereof:

“(B) remove and reduce to possession any such species from areas under Federal jurisdiction;”;

(2) by amending subsection (b)(1) to read as follows:

*Ante*, p. 1411. “(b)(1) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of subsections (a)(1)(A) and (a)(1)(G) of this section shall not apply to any fish or wildlife which was held in captivity or in a controlled environment on (A) December 28, 1973, or (B) the date of the publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 4 of this Act: *Provided*, That such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity. With respect to any act prohibited by subsections (a)(1)(A) and (a)(1)(G) of this section which occurs after a period of 180 days from (i) December 28, 1973, or (ii) the date of publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published

pursuant to subsection (c) of section 4 of this Act, there shall be a rebuttable presumption that the fish or wildlife involved in such act is not entitled to the exemption contained in this subsection.”; and *Ante*, p 1411.

(3) by amending subsection (b)(2)(A) by striking out “This section shall not apply to” and inserting in lieu thereof “The provisions of subsection (a)(1) shall not apply to”.

(c) Section 11(a)(1) and (b)(1) of such Act of 1973 are each amended by striking out “or (C)” immediately after “(a)(2)(A), (B),” and inserting in lieu thereof “(C), or (D)”. 16 USC 1540.

Approved October 13, 1982.

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LEGISLATIVE HISTORY—H.R. 6133 (S. 2309):

HOUSE REPORTS: No. 97-567 Pt. I (Comm. on Merchant Marine and Fisheries) and No. 97-835 (Comm. of Conference).

SENATE REPORT No. 97-418 accompanying S 2309 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol 128 (1982):

June 8, considered and passed House.

June 9, considered and passed Senate, amended, in lieu of S 2309.

Sept. 20, Senate agreed to conference report.

Sept. 30, House agreed to conference report.

Public Law 97-305  
97th Congress

An Act

Oct. 14, 1982

[S. 188]

To authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes.

Gallatin  
National Forest,  
land conveyance.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Agriculture be, and he hereby is, authorized and directed to convey by patent to Wayne Fuller, the following described lands in the Gallatin National Forest, to wit: township 6 south, range 9 east, and township 6 south, range 10 east, Principal meridian, Montana, Park County, Montana; beginning at corner numbered 4 of H.E.S. 84, thence south 63 degrees 50 minutes west, a distance of 68.1 feet; thence south 54 degrees 5 minutes east, a distance of 448.7 feet; thence north 53 degrees 27 minutes east, a distance of 39.3 feet; thence north 51 degrees 3 minutes 52 seconds west, a distance of 429.3 feet to the point of beginning; containing approximately 0.497 acres.

SEC. 2. No conveyance shall be made pursuant to this Act until payment has been made for the fair market value of the interest being conveyed.

Patent  
reservation.

SEC. 3. The patent issued pursuant to this Act shall contain a reservation to the United States of all gas, oil, coal, and other mineral deposits as may be found in such lands.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—S. 188:

HOUSE REPORT No. 97-905 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-206 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 21, considered and passed Senate.

Vol. 128 (1982): Sept. 30, considered and passed House.

Public Law 97-306  
97th Congress

An Act

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children, and to modify and improve the educational assistance programs administered by the Veterans' Administration and the veterans' employment programs administered by the Department of Labor; and for other purposes.

Oct. 14, 1982  
[H.R. 6782]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Veterans'  
Compensation,  
Education, and  
Employment  
Amendments of  
1982.  
38 USC 101 note.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY  
AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

95 Stat. 1026.  
38 USC 314.

(1) by striking out "\$58" in subsection (a) and inserting in lieu thereof "\$62";

(2) by striking out "\$107" in subsection (b) and inserting in lieu thereof "\$114";

(3) by striking out "\$162" in subsection (c) and inserting in lieu thereof "\$173";

(4) by striking out "\$232" in subsection (d) and inserting in lieu thereof "\$249";

(5) by striking out "\$328" in subsection (e) and inserting in lieu thereof "\$352";

(6) by striking out "\$413" in subsection (f) and inserting in lieu thereof "\$443";

(7) by striking out "\$521" in subsection (g) and inserting in lieu thereof "\$559";

(8) by striking out "\$604" in subsection (h) and inserting in lieu thereof "\$648";

(9) by striking out "\$679" in subsection (i) and inserting in lieu thereof "\$729";

(10) by striking out "\$1,130" in subsection (j) and inserting in lieu thereof "\$1,213";

(11) by striking out "\$1,403" and "\$1,966" in subsection (k) and inserting in lieu thereof "\$1,506" and "\$2,111", respectively;

(12) by striking out "\$1,403" in subsection (l) and inserting in lieu thereof "\$1,506";

(13) by striking out "\$1,547" in subsection (m) and inserting in lieu thereof "\$1,661";

(14) by striking out "\$1,758" in subsection (n) and inserting in lieu thereof "\$1,888";

(15) by striking out "\$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "\$2,111";

(16) by striking out "\$844" and "\$1,257" in subsection (r) and inserting in lieu thereof "\$906" and "\$1,350", respectively;

(17) by striking out "\$1,264" in subsection (s) and inserting in lieu thereof "\$1,357"; and

(18) by striking out "\$244" in subsection (t) and inserting in lieu thereof "\$262".

38 USC 314 note.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. Any such adjustment shall be made in conformance with the methodology used in determining the amounts of the increases under subsection (a) and specifically shall include the rounding down to the nearest dollar of each rate as so adjusted.

38 USC note  
prec. 101.

38 USC 301 *et*  
*seq.*

#### ADDITIONAL COMPENSATION FOR DEPENDENTS

95 Stat. 1027.  
38 USC 315.

**SEC. 102.** Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:

"(A) has a spouse but no child, \$74;

"(B) has a spouse and one or more children, \$124 plus \$40 for each child in excess of one;

"(C) has no spouse but one or more children, \$50 plus \$40 for each child in excess of one;";

(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "\$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "\$60";

(4) by striking out "\$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "\$134"; and

(5) by striking out "\$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "\$112".

#### CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

95 Stat. 1027.  
38 USC 362.

**SEC. 103.** Section 362 is amended by striking out "\$305" and inserting in lieu thereof "\$327".

#### DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

95 Stat. 1028.  
38 USC 411.

**SEC. 104.** (a) Subsection (a) of section 411 is amended to read as follows:

“(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

“Pay grade	Monthly rate	Pay grade	Monthly rate
E-1.....	\$445	W-4.....	\$639
E-2.....	459	O-1.....	563
E-3.....	470	O-2.....	582
E-4.....	500	O-3.....	622
E-5.....	514	O-4.....	658
E-6.....	526	O-5.....	726
E-7.....	552	O-6.....	817
E-8.....	582	O-7.....	884
E-9.....	<sup>1</sup> 608	O-8.....	969
W-1.....	563	O-9.....	1,041
W-2.....	586	O-10.....	<sup>2</sup> 1,139
W-3.....	603		

“<sup>1</sup>If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$655.

“<sup>2</sup>If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$1,222.”

(b) Subsection (b) of such section is amended by striking out “\$48” and inserting in lieu thereof “\$51”.

(c) Subsection (c) of such section is amended by striking out “\$125” and inserting in lieu thereof “\$134”.

(d) Subsection (d) of such section is amended by striking out “\$62” and inserting in lieu thereof “\$66”.

#### DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

95 Stat. 1029.  
38 USC 413.

(1) by striking out “\$210” in clause (1) and inserting in lieu thereof “\$225”;

(2) by striking out “\$301” in clause (2) and inserting in lieu thereof “\$323”;

(3) by striking out “\$389” in clause (3) and inserting in lieu thereof “\$417”; and

(4) by striking out “\$389” and “\$79” in clause (4) and inserting in lieu thereof “\$417” and “\$84”, respectively.

#### SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

95 Stat. 1029.  
38 USC 414.

(1) by striking out “\$125” in subsection (a) and inserting in lieu thereof “\$134”;

(2) by striking out “\$210” in subsection (b) and inserting in lieu thereof “\$225”; and

(3) by striking out “\$107” in subsection (c) and inserting in lieu thereof “\$114”.

#### REPEAL OF EARLIER RATE ADJUSTMENT

SEC. 107. Section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253) is repealed.

Ante, p. 803.

38 USC 314 note.

SEC. 108. The amendments made by this part shall take effect on October 1, 1982.

## PART B—PROGRAM IMPROVEMENTS

### COMPENSATION RATE INCREASES FOR CERTAIN BLINDED VETERANS

38 USC 314.

SEC. 111. (a) Section 314(n) is amended by inserting “or has suffered blindness without light perception in both eyes,” after “anatomical loss of both eyes,”.

(b) Section 314(p) is amended by inserting “or service-connected anatomical loss or loss of use of one hand or one foot” after “in one ear”.

Effective date.

38 USC 314 note.

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

### CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO CERTAIN SURVIVORS' BENEFITS

38 USC 410.

SEC. 112. (a) Section 410(b)(1) is amended by inserting “or entitled to receive” after “was in receipt of”.

Effective date.

38 USC 410 note.

(b)(1) The amendment made by subsection (a) shall take effect on October 1, 1982.

(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) had taken effect on October 1, 1978.

38 USC 401 *et seq.*

(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) had taken effect on October 1, 1978.

### ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS DISABLED DURING CERTAIN TRAINING

38 USC 101.

SEC. 113. (a) Section 101(22) is amended—

(1) by striking out “and” at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

“(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10; and”.

10 USC 2101 *et seq.*

Repeal.

38 USC 403.

(b)(1) Section 403 is repealed.

(2) The table of sections at the beginning of chapter 13 is amended by striking out the item relating to such section.

5 USC 8140 note.

5 USC 8101.

(c) Notwithstanding section 8140 of title 5, United States Code, subchapter I of chapter 81 of such title does not apply in the case of a disability suffered by a member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force that is compensable under



chapter 11 of title 38, United States Code, or a death suffered by such a member for which dependency and indemnity compensation is payable under chapter 13 of such title.

(d) The amendments made by subsections (a) and (b) and the provisions of subsection (c) shall apply only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982.

38 USC 301 *et seq.*

38 USC 401 *et seq.*

Effective date.  
38 USC 101 note.

## TITLE II—EDUCATIONAL ASSISTANCE

### VETERANS' COUNSELING AND OUTREACH SERVICES

SEC. 201. (a) Section 243 is amended to read as follows:

38 USC 243.

#### “§ 243. Outstationing of counseling and outreach personnel

“The Administrator may station employees of the Veterans' Administration at locations other than Veterans' Administration offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.”

(b) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

“243. Outstationing of counseling and outreach personnel.”

### REPEAL OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL SCHOOLS

SEC. 202. (a) Section 1673(a) is amended—

38 USC 1673.

- (1) by striking out “(1)” before “The”;
- (2) by redesignating clause (A) as clause (1);
- (3) by striking out clause (B) and inserting in lieu thereof the following:

“(2) any sales or sales management course which does not provide specialized training within a specific vocational field;”

- (4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

- (5) by striking out paragraph (2).

(b) Section 1723(a) is amended—

38 USC 1723.

- (1) by striking out “(1)” before “The”;
- (2) by redesignating clause (A) as clause (1);
- (3) by striking out clause (B) and inserting in lieu thereof the following:

“(2) any sales or sales management course which does not provide specialized training within a specific vocational field;”

- (4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

- (5) by striking out paragraph (2).

(c) The amendments made by this section shall take effect on October 1, 1982.

Effective date.  
38 USC 1673  
note.

### TECHNICAL AMENDMENT RELATING TO 85-15 RULE

SEC. 203. (a) Section 1673(d) is amended—

38 USC 1673.

- (1) by striking out “The Administrator” in the first sentence and inserting in lieu thereof “(1) Except as provided in paragraph (2) of this subsection, the Administrator”;

(2) by striking out “(other than” and all that follows through “of this title”); and

(3) by adding at the end the following new paragraph:

“(2) Paragraph (1) of this subsection—

“(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

“(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

“(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.”.

38 USC 1691.

(b) Section 1691(c) is amended by striking out “section 1673(d)” and inserting in lieu thereof “section 1673(d)(1)”.

#### CHARGE TO ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY PROGRAMS

38 USC 1682.

SEC. 204. Section 1682 is amended—

(1) by striking out “or (c)” in subsection (a)(1) and inserting in lieu thereof “(c), or (g)”;

(2) by striking out “entitlement shall be charged at one-half of the full-time institutional rate” in subsection (e) and inserting in lieu thereof “the amount of such veteran’s entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis”.

#### MODIFICATION OF RESTRICTION ON ALLOWANCES FOR INCARCERATED PERSONS

38 USC 1508.

SEC. 205. (a) Section 1508(g)(2) is amended—

(1) by inserting “not” after “shall”; and

(2) by striking out all after “felony” and inserting in lieu thereof a period.

38 USC 1682.

(b) Section 1682(g) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: “The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.”; and

(2) in paragraph (2)—

(A) by inserting “not” after “shall”; and

(B) by striking out all after “felony” and inserting in lieu thereof a period.

38 USC 1780.

(c) Section 1780(a) is amended—

(1) by striking out “section 1504” and inserting in lieu thereof “section 1508”;

(2) by inserting “or” at the end of clause (4);

(3) by striking out the semicolon and “or” at the end of clause

(5) and inserting in lieu thereof a period; and

(4) by striking out clause (6).

## CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION AUTHORITY

SEC. 206. (a) Section 1662(a)(3) is amended—

95 Stat. 1054.  
38 USC 1662.

(1) in the first sentence of subparagraph (C)(i)—

(A) by striking out “may” and inserting in lieu thereof “shall”; and

(B) by striking out “only if” and all that follows in such sentence and inserting in lieu thereof “unless the Administrator determines, based on an examination of the veteran’s employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran’s abilities and aptitudes.”; and

(2) by striking out “December 31, 1983” in subparagraph (D) and inserting in lieu thereof “December 31, 1984”.

(b)(1) Not later than 30 days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed 30 days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a).

Publication in  
Federal  
Register.  
38 USC 1662  
note.

(2) Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i).

Publication in  
Federal  
Register.

(c) The amendments made by subsection (a) shall take effect as of January 1, 1982.

Effective date.  
38 USC 1662  
note.

## AUTHORITY TO SUSPEND EDUCATIONAL ASSISTANCE IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

38 USC 1790.

(1) by striking out “Any” in paragraph (2) and inserting in lieu thereof “Except as provided in paragraph (3) of this subsection, any”; and

(2) by adding at the end the following new paragraph:

“(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

“(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*

“(I) the Administrator provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

“(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Administrator determines is reasonable and appropriate) take corrective action; and

“(III) the Administrator, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Administrator’s intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Administrator has determined is reasonable and appropriate), and of the date on which the Administrator intends to take action under such subparagraph.”.

#### MODIFICATION OF REPORTING REQUIREMENT ON DEFAULT RATES UNDER EDUCATIONAL LOAN PROGRAM

38 USC 1798.

SEC. 208. The second sentence of section 1798(e)(3) is amended—

(1) by striking out “in maximum feasible detail”;

(2) by inserting “and” at the end of clause (A); and

(3) by striking out clauses (B) and (C) and inserting in lieu thereof the following:

“(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) other loans made under this section.”.

#### ADMINISTRATIVE IMPLEMENTATION OF CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAMS

38 USC 1622.

SEC. 209. Section 1622 is amended by adding at the end the following new subsection:

“(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans’ Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.”.

10 USC 2141 *et seq.*

#### ADJUSTMENT OF COMPUTATION OF BENEFIT PAYMENT RATE FOR PARTICIPANTS MAKING LUMP-SUM CONTRIBUTIONS UNDER CHAPTER 32 PROGRAM

SEC. 210. Section 1622(d) is amended by striking out “\$75” and inserting in lieu thereof “\$100”.

### TITLE III—EMPLOYMENT ASSISTANCE

#### CONGRESSIONAL FINDINGS

SEC. 301. (a) Chapter 41 is amended by inserting after the table of sections the following new section:

38 USC 2000.

#### “§ 2000. Findings

“The Congress makes the following findings:

“(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

“(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet

those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment."

(b)(1) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2001 the following new item:

"2000. Findings."

(2) The item relating to chapter 41 in the table of chapters preceding part I and in the table of chapters at the beginning of part III is amended by striking out "2001" and inserting in lieu thereof "2000".

#### PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

38 USC 2002.

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era" after "opportunities".

#### JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 303. Section 2002A is amended by adding at the end the following new sentence: "The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment."

38 USC 2002A.

38 USC 2021 *et seq.*

#### STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT

SEC. 304. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

38 USC 2003.

#### "§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the State Director for Veterans' Employment, and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the State Director for Veterans' Employment to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competi-

5 USC 5101 *et seq.*, 5331.

tive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

“(b)(1) Each State Director for Veterans’ Employment and Assistant State Director for Veterans’ Employment (A) shall be an eligible veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (B) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

“(2) Each State Director for Veterans’ Employment and Assistant State Director for Veterans’ Employment shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the veterans’ and eligible persons’ counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

“(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the State Director for Veterans’ Employment and Assistant State Directors for Veterans’ Employment shall—”.

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

“2003. State and Assistant State Directors for Veterans’ Employment.”.

(b) Clause (6) of such section is amended to read as follows:

“(6) promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;”.

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and by adding at the end the following new clauses:

“(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

“(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

“(10) working closely with appropriate Veterans’ Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

“(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

“(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying

38 USC 1500 *et seq.*

and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans.”.

#### DISABLED VETERANS’ OUTREACH PROGRAM

SEC. 305. (a) Subsection (a) of section 2003A is amended—

38 USC 2003A.

(1) by inserting a comma and “acting through the Assistant Secretary for Veterans’ Employment,” in paragraph (1) after “Secretary of Labor”;

(2) by inserting a comma and “acting through the Assistant Secretary of Labor for Veterans’ Employment,” in paragraph (3) after “Secretary”;

(3) by striking out “available to” in paragraphs (1) and (3) and inserting in lieu thereof “available for use in”;

(4) by striking out “provided to” in paragraph (2) and inserting in lieu thereof “provided for use in”; and

(5) by adding at the end the following new paragraph:

“(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans’ Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.”.

(b) Subsection (b)(2) of such section is amended—

(1) by inserting after the first sentence the following new sentence: “The Secretary, after consulting the Administrator and the State Director for Veterans’ Employment assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans’ outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent.”; and

Waiver.

*Ante*, p. 1437.

(2) by striking out “section 621A” and inserting in lieu thereof “section 612A”.

(c) Subsection (c) of such section is amended—

(1) by striking out “prime sponsors under the Comprehensive Employment and Training Act” in clause (4) and inserting in lieu thereof “appropriate grantees under other Federal and federally funded employment and training programs”; and

(2) by adding at the end the following new clause:

“(8) Development of outreach programs in cooperation with appropriate Veterans’ Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.”.

38 USC 1500 *et seq.*

(d) Section 2003A is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d) and adding at the end the following new sentence: “The Secretary shall monitor the appointment of disabled veterans’ outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.”.

## ESTIMATES OF FUNDS FOR ADMINISTRATION

38 USC 2006.

SEC. 306. (a) Subsection (a) of section 2006 is amended—

(1) by inserting “and chapters 42 and 43 of this title” after “of this chapter” in the first sentence; and

(2) by adding at the end the following new sentences: “Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary to fund the disabled veterans’ outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section. Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans’ Employment.”.

(b) Subsection (d) of such section is amended by inserting a comma and “upon the recommendation of the Assistant Secretary of Labor for Veterans’ Employment,” after “Secretary of Labor”.

## ANNUAL REPORT TO CONGRESS

38 USC 2007.

SEC. 307. Section 2007(c) is amended by adding at the end the following new sentence: “The report shall also include a report on activities carried out under section 2003A of this title.”.

## NATIONAL EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS

SEC. 308. (a) Chapter 41 is amended by adding at the end the following new sections:

38 USC 2009.

**“§ 2009. National veterans’ employment and training programs****“(a) The Secretary of Labor shall—****“(1) administer through the Assistant Secretary of Labor for Veterans’ Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;****“(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;****“(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title; and****“(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.**38 USC 1500 *et seq.*



“(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provision of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans’ employment as the Secretary considers appropriate.

Report to congressional committees.

**“§ 2010. Secretary of Labor’s Committee on Veterans’ Employment**

38 USC 2010.

“(a) There is established within the Department of Labor an advisory committee to be known as the ‘Secretary’s Committee on Veterans’ Employment’. The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans’ employment.

Establishment.

“(b) The committee shall be chaired by the Secretary of Labor. The Assistant Secretary of Labor for Veterans’ Employment shall serve as vice chairman of the committee. The committee shall include—

Chairman.

“(1) representatives of—

Membership.

“(A) the Administrator;

“(B) the Secretary of Defense;

“(C) the Secretary of Health and Human Services;

“(D) the Director of the Office of Personnel Management;

“(E) the Chairman of the Equal Employment Opportunity Commission; and

“(F) the Administrator of the Small Business Administration; and

“(2) a representative of each of the chartered veterans’ organizations having a national employment program.

“(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.”.

Compensation.

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

“2009. National veterans’ employment and training programs.

“2010. Secretary of Labor’s Committee on Veterans’ Employment.”.

**PERSONS ELIGIBLE FOR CHAPTER 42 EMPLOYMENT AND TRAINING PROGRAMS**

**SEC. 309. Section 2011 is amended—**

38 USC 2011.

(1) by inserting “(or who but for the receipt of military retired pay would be entitled to compensation)” in clauses (1) and (3) after “compensation”; and

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof “and the United States Postal Service and the Postal Rate Commission, and the term ‘department, agency, or instrumentality in the executive branch’ includes the United States Postal Service and the Postal Rate Commission.”.

Definition.

**REPORTS ON VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS**

38 USC 2012.

**SEC. 310.** (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary shall prescribe, report at least annually to the Secretary on—

"(A) the number of employees in the work force of such contractor, by job category and hiring location, who are veterans of the Vietnam era or special disabled veterans; and

"(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are veterans of the Vietnam era or special disabled veterans.

"(2) The Secretary shall ensure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to any requirement for the contractor to make any other report to the Secretary."

Regulations.  
38 USC 2012  
note.

(b) Within 90 days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations under subsection (d) of section 2012 of title 38, United States Code, as added by the amendment made by subsection (a).

**REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM**

**SEC. 311.** Section 6 of Public Law 90-83, approved September 11, 1967 (29 U.S.C. 601-607), is repealed.

**TITLE IV—MISCELLANEOUS PROVISIONS****REMOVAL OF TIME RESTRICTION FOR FILING AN INSURANCE CLAIM;  
PROHIBITION OF INSURANCE PROCEEDS ESCHEATING TO A STATE**

38 USC 770.

**SEC. 401.** (a) Section 770 is amended—

(1) by striking out the second sentence of subsection (c); and

(2) by adding at the end the following new subsection:

"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection."

Effective date.  
38 USC 770 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

**BURIAL FLAGS**

38 USC 901.

**SEC. 402.** (a) Section 901 is amended by adding at the end the following new subsection:

"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate."

(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

Effective date.  
38 USC 901 note.

**BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS WHOSE REMAINS  
ARE UNCLAIMED**

SEC. 403. Section 902(a) is amended by striking out “When a veteran” and all that follows through “the Administrator,” and inserting in lieu thereof the following: “In the case of a deceased veteran—

38 USC 902.

“(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or

“(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Administrator determines—

“(A) that there is no next of kin or other person claiming the body of the deceased veteran, and

“(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Administrator.”.

(b) The amendment made by subsection (a) shall apply with respect to burial and funeral expenses incurred after September 30, 1982.

Effective date.  
38 USC 902 note.

**CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR CERTAIN  
VETERANS WHO DIE IN CONTRACT NURSING HOME FACILITIES**

SEC. 404. (a) Section 903(a) is amended—

38 USC 903.

(1) by striking out “Where death occurs in a Veterans’ Administration facility” and inserting in lieu thereof “When a veteran dies in a Veterans’ Administration facility (as defined in section 601(4) of this title)”;

(2) by inserting “or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death” after “of this title”.

(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

Effective date.  
38 USC 903 note.

**SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION  
OF THE SECRETARY OF THE ARMY**

SEC. 405. Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled “An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service”, approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of the superintendent of a national cemetery under the jurisdiction of the Secretary of the Army.

24 USC 271-276  
note.

**GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES  
AND TO PURCHASE MANUFACTURED-HOME LOTS; CHANGE IN NOMEN-  
CLATURE**

38 USC 1819.

**SEC. 406. (a) Section 1819(a) is amended—**

(1) in paragraph (1), by adding at the end the following new clause:

“(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.”;

(2) in paragraph (2), by inserting “(other than the refinancing under clause (F) of such paragraph of an existing loan)” after “subsection”;

(3) in paragraph (3), by striking out “(C) or (E)” and inserting in lieu thereof “(C), (E), or (G)”; and

(4) by adding at the end the following new paragraph:

“(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection—

“(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran’s home; and

“(ii) the amount of the loan may not exceed an amount equal to the sum of—

“(I) the purchase price of the lot,

“(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

“(III) the balance of the loan being refinanced, and

*Infra.*

“(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

“(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans’ Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran’s guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.”.

38 USC 1803.

**(b) Section 1803(c)(3) is amended—**

(1) by striking out “used:” in the matter preceding clause (1) and inserting in lieu thereof “used—”;

(2) by striking out “or” at the end of clause (C);

(3) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and “or”; and

(4) by adding at the end the following new clause:

*Supra.*

“(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only

with respect to that portion of the loan used to refinance such indebtedness.”.

(c)(1) Section 1811 is amended by striking out “mobile home” in subsections (c)(1) and (d)(1) and inserting in lieu thereof “manufactured home”. 38 USC 1811.

(2) Section 1819 is further amended— 38 USC 1819.

(A) by striking out “mobile” each place it appears and inserting in lieu thereof “manufactured”;

(B) by striking out “mobile-home” both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof “manufactured-home”; and

(C) by amending the section heading to read as follows:

**“§ 1819. Loans to purchase manufactured homes and lots”.**

(3) The item relating to such section in the table of sections at the beginning of chapter 37 is amended to read as follows:

“1819. Loans to purchase manufactured homes and lots.”.

**PERIOD FOR REQUEST OF WAIVER OF OVERPAYMENT**

SEC. 407. (a) Section 3102(a) is amended— 38 USC 3102.

(1) by striking out “two years” and inserting in lieu thereof “180 days”; and

(2) by inserting a comma and “or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date” after “payee”.

(b) The amendments made by subsection (a) shall apply only with respect to notifications of indebtedness that are made by the Administrator of Veterans’ Affairs after March 31, 1983. Effective date. 38 USC 3102 note.

**MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT**

SEC. 408. (a) Section 3103A is amended—

95 Stat. 1035.  
38 USC 3103A.

(1) by striking out “on or after the date of the enactment of the Veterans’ Disability Compensation, Housing, and Memorial Benefits Amendments of 1981” in subsection (b)(2)(B) and inserting in lieu thereof “after October 16, 1981,”;

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection (d):

“(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

“(A) 24 months of continuous active duty, or

“(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Veterans’ Administration), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

“(2) Paragraph (1) of this subsection applies—

“(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

10 USC 1171. “(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

“(3) Paragraph (1) of this subsection does not apply—

42 USC 1305. “(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

5 USC 2108. “(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title.”; and

(3) by adding at the end the following new subsection:

“(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.”

38 USC 3103A  
note.

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a)(2), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person was discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

Repeal.

(c)(1) Section 977 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 977.

38 USC 3103A  
note.

(d) Section 3103A of title 38, United States Code, as amended by subsection (a), is the law with respect to the matters stated in such section and applies, in accordance with its terms, with respect to benefits under Federal law, regardless of the particular title of the United States Code or other law under which any such benefit is provided or the department, agency, or instrumentality which administers any such benefit.

#### LIMITATIONS ON CONTRACTING OUT ACTIVITIES AT VETERANS’ ADMINISTRATION HEALTH-CARE FACILITIES

38 USC 5010  
note.

SEC. 409. (a) It is the policy of the United States that the Veterans’ Administration—

(1) shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) shall operate such system through cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans’ Administration under title 38, United States Code.

38 USC 5010.

(b) Section 5010 is amended by adding at the end the following new subsection:

“(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (3) of this subsection—

“(A) a contract may not be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction (hereinafter in this subsection referred to as a ‘Veterans’ Administration health-care facility’) would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

Limitation.

“(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the results of a study described in paragraph (4) of this subsection, may, in the exercise of the Administrator’s sole discretion but subject to paragraph (2) of this subsection, enter into a contract as a result of which the activity would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government.

“(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if the Administrator determines—

“(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

“(B) that the quantity or quality of health-care services provided to eligible veterans by the Veterans’ Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

“(3) The provisions of paragraph (1) of this subsection do not apply—

“(A) to a contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or under section 1535 of title 31; or

38 USC 601

*et seq.*

38 USC 5011,

*ante.* p. 74, 5053;

31 USC 1535.

“(B) to a contract under section 213 or 4117 of this title if the Chief Medical Director determines that such contract is necessary in order to provide services to eligible veterans at a Veterans’ Administration health-care facility that could not otherwise be provided at such facility.

“(4) A study referred to in paragraph (1)(B) of this subsection is a study that—

Study.

“(A) compares the cost of performing an activity at a Veterans’ Administration health-care facility through Federal employees with the cost of performing such activity through a contractor of the Government;

“(B) is based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Federal employees;

“(C) with respect to the costs of performance of such activity through Federal employees, is based (to the maximum extent feasible) on actual cost factors of the Veterans’ Administration for pay and retirement and other fringe benefits for the Federal employees who perform the activity; and

“(D) takes into account (i) the costs to the Government (including severance pay) that would result from the separation of employees whose Federal employment may be terminated as a result of the Administrator entering into a contract described in paragraph (1)(B) of this subsection, and (ii) all costs to the Government associated with the contracting process.

Notice,  
submittal to  
congressional  
committees.

“(5) Prior to conducting a study described in paragraph (4) of this subsection, the Administrator shall (in a timely manner) submit to the appropriate committees of the Congress written notice of a decision to study the activity involved for possible performance by a contractor.

Report.

“(6) If, after completion of a study described in paragraph (4) of this subsection, a decision is made to convert performance of the activity involved to contractor performance, the Administrator shall promptly submit to the appropriate committees of the Congress written notice of such decision and a report with respect to such conversion. Each such report shall include—

“(A) a summary of the study described in paragraph (4) of this subsection with respect to such contract;

“(B) a certification that the study itself is available to such committees and that the results of the study meet the requirements of paragraph (2)(A) of this subsection;

“(C) a certification that the requirements of paragraph (2)(B) of this subsection would be met with respect to such contract and a summary of the information that supports such certification;

“(D) if more than 25 jobs are affected, information showing the potential economic impact on the Federal employees affected and the potential economic impact on the local community and the Government of contracting for performance of such activity; and

“(E) information showing the amount of the bid accepted for a contract for the performance of the activity and the cost of performance of such activity by Federal employees, together with the total estimated costs which the Government will incur because of the contract.



“(7) Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Administrator shall submit a written report to Congress describing the extent to which activities at Veterans’ Administration health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.”.

Report to  
Congress.

Approved October 14, 1982.

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**LEGISLATIVE HISTORY—H.R. 6782 (S. 2913):**

HOUSE REPORT No. 97-660 (Comm. on Veterans' Affairs).

SENATE REPORT No. 97-550 accompanying S. 2913 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 27, considered and passed House.

Sept. 24, considered and passed Senate, amended

Sept. 28, House concurred in Senate amendments with amendments.

Sept. 29, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982).

Oct. 14, Presidential statement.

Public Law 97-307  
97th Congress

An Act

Oct. 14, 1982

[S. 2874]

To amend the Act of March 16, 1934, as amended, to credit entrance fees for the migratory-bird hunting and conservation stamp contest to the account which pays for the administration of the contest.

Migratory bird  
hunting and  
conservation  
stamp contest.  
Entrance fees,  
credit.  
16 USC 718j.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of March 16, 1934, as amended (16 U.S.C. 718 et seq.), is amended by adding at the end thereof the following section:

“SEC. 10. Notwithstanding any other provision of law, moneys received by the United States Fish and Wildlife Service in the form of fees for entering the migratory-bird hunting and conservation stamp contest shall be credited first to the appropriation account from which expenditures for the administration of such contest are made, and second, to the extent such moneys exceed the expenditures for administration of the contest, to the migratory-bird conservation fund.”.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—S. 2874:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 20, considered and passed Senate.

Sept. 30, considered and passed House.

Public Law 97-308  
97th Congress

An Act

To amend chapter 84, section 1752 of title 18, United States Code, to authorize the Secretary of the Treasury to establish zones of protection for certain persons protected by the United States Secret Service.

Oct. 14, 1982  
[H.R. 4468]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1752 of title 18, United States Code, is amended as follows:

- (a) by amending the title of such section to read as follows:  
“Temporary residences and offices of the President and others”;
- (b) by amending subsection (a)(1)(i) to read as follows:  
“(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or other person protected by the Secret Service or as temporary offices of the President and his staff or of any other person protected by the Secret Service, or”;
- (c) by inserting the words “or other person protected by the Secret Service” after the word “President” in subsection (a)(1)(ii);
- (d) by amending subsection (d)(1) to read as follows:  
“(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President or other person protected by the Secret Service and the temporary offices of the President and his staff or of any other person protected by the Secret Service, and”;
- (e) by inserting the words “or other person protected by the Secret Service” after the word “President” in subsection (d)(2);  
and
- (f) by adding at the end thereof the following new subsection:  
“(f) As used in this section the term ‘other person protected by the Secret Service’ means any person authorized by section 3056 of this title or by Public Law 90-331, as amended, to receive the protection of the United States Secret Service when such person has not

Certain persons  
protected by U.S.  
Secret Service.  
Protection zones,  
establishment.

18 USC 3056  
note.

18 USC 3056  
note.

declined such protection pursuant to section 3056 of this title or pursuant to Public Law 90-331, as amended.”.

SEC. 2. Subsection (b) of section 3056 of title 18, United States Code, is amended by striking “\$300” and inserting in lieu thereof “\$1,000”.

Approved October 14, 1982.

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**LEGISLATIVE HISTORY—H.R. 4468:**

HOUSE REPORT No. 97-451 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 16, 18, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-309  
97th Congress

An Act

To extend the aviation insurance program for five years.

Oct. 14, 1982  
[H.R. 5930]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the last sentence of section 303(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1902(b)(1)) is amended to read as follows: "At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation." The amendment made by the preceding sentence shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act.

Aviation  
insurance  
program,  
extension.  
National  
Transportation  
Safety Board  
membership.

49 USC 1902  
note

SEC. 2. Section 306 of the Independent Safety Board Act of 1974 (49 U.S.C. 1905) is amended in subsection (a) by striking out "pursuant to subsection (b)" and inserting in lieu thereof "pursuant to subsection (b) or (c)" and by adding at the end thereof the following new subsection:

"(c) COCKPIT VOICE RECORDER.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: *Provided*, That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: *And provided further*, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations."

Information,  
availability to  
public.

SEC. 3. Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 4. (a) Section 1601(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(a)) is amended by striking out paragraph (3) and by redesignating paragraph (4), and all cross references thereto, as paragraph (3).

(b) Section 1601(b)(1)(C) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)(C)) is amended by striking out “(relating to foreign air transportation)”.

Approved October 14, 1982.

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**LEGISLATIVE HISTORY—H.R. 5930:**

HOUSE REPORTS: No. 97-519 (Comm. on Public Works and Transportation), Nos. 97-722 and 97-864 (Comms. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 2, considered and passed House.

June 21, 22, considered and passed Senate, amended.

Aug. 12, Sept. 30, Conference report considered and passed Senate.

Sept. 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):  
Oct. 14, Presidential statement.

Public Law 97-310  
97th Congress

An Act

To provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes.

Oct. 14, 1982  
[H.R. 7293]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled “An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes”, approved October 15, 1966 (16 U.S.C. 284-284b), is amended by adding at the end the following new sections:

Wolf Trap Farm  
Park Act.

“SEC. 4. (a) The Secretary is authorized to make available to the Foundation, in the form of a grant, \$9,000,000 to be used for the reconstruction of the Center, subject to the provisions of this section. Such grant shall be made available in increments as needed for such purpose and only if the Foundation has agreed under terms and conditions satisfactory to the Secretary to provide, from non-Federal sources, sufficient contributions on a timely basis to complete the reconstruction of the Center.

Grant.  
16 USC 284c.

“(b) The Secretary may make loans to the Foundation to the extent needed to complete the reconstruction of the Center and to provide for noise mitigation measures, including those on adjacent public property, in an amount equal to twice the amount of non-Federal contributions received, and provided, by the Foundation for such reconstruction work. The total amount of such loans may not exceed \$8,000,000. Loans made under this subsection shall be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketing obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus such additional charge, if any, as the Secretary may determine, for the purpose of covering other costs of servicing the loan. In determining the terms and conditions governing any loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

Loans.

“(c) No grants or loans may be made under this section unless the Secretary has entered into a written agreement with the Foundation under which the Foundation agrees—

Terms and  
conditions.

Written  
agreement

“(1) to expend all funds for the reconstruction of the Center (and for construction or reconstruction of any related structures or fixtures) only in accordance with circulars published by the Office of Management and Budget applicable to Federal grants to nonprofit organizations, and in accordance with the provisions of the Davis-Bacon Act (40 U.S.C. 276a-a7);

40 USC 276a-  
276a-5.

“(2) to comply with such other terms and conditions as the Secretary deems appropriate; and

“(3) to maintain, during the term of the cooperative agreement described in section (5), and at the Foundation’s expense, insurance on the Center respecting such risks, in such amounts, and containing such terms and conditions, as are satisfactory to

the Secretary. Any repairs or reconstruction carried out with Funds obtained from the receipt of the proceeds of any such insurance shall be subject to the approval of the Secretary.

“(d) The Secretary shall be responsible for overseeing the reconstruction and shall have final approval over the plans for, and location and design of, the Center, and the Foundation shall be responsible for managing the construction activities, including the selection (in accordance with the requirements referred to in paragraphs (1) and (2) of subsection (c)) of persons to perform architectural, engineering, construction, and related services.

Easement.

“(e) No grants or loans may be made under this section unless the Secretary has received what the Secretary deems to be adequate written assurance from the Administrator of the Federal Aviation Administration that any easement granted to the Commonwealth of Virginia by the Administrator for construction of the Dulles Toll Road will contain noise standards (“A” weighted energy average sound level of 52 to 54 dB) and other standards set forth in the Final Environmental Impact Statement for the Dulles Airport Access Road Outer Parallel Toll Roads, prepared by the Federal Aviation Administration and issued in May of 1982, legally enforceable by the Administrator and by the Secretary which are adequate to protect the Center from undue noise pollution and other environmental degradation attributable to such toll road both during and after its construction, and will also contain legally enforceable assurances that the Commonwealth of Virginia will promptly take measures to achieve the noise levels specified in the easement. Such measures may include a partial or total ban on truck traffic on the toll road or other mitigation recommended by the Secretary and the Administrator.

Toll road, truck traffic ban.

“(f) The Secretary may also provide support services, as requested by the Foundation, on a reimbursable basis, for purposes of reconstruction of the Center.

Cooperative agreement.  
16 USC 284d.

“SEC. 5. (a) The Secretary is authorized and directed to enter into a cooperative agreement with the Foundation respecting the presentation of performing arts and related educational and cultural programs at the Center, and in such other areas of the park as may be agreed to. The Secretary may provide technical and financial assistance under such a cooperative agreement for such purposes, pursuant to such terms and conditions as he deems appropriate.

“(b) As a condition of entering into a cooperative agreement under this section, the Secretary shall require that—

“(1) the Foundation maintain the insurance described in section 4(c)(3) of this Act; and

26 USC 501.

“(2) the Foundation maintain its status as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from taxation under section 501(a) of such Code.

Information disclosure.

“(c) A cooperative agreement under this section shall provide that—

“(1) the Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access to any pertinent books, documents, papers, and records of the Foundation to make audits, examinations, excerpts, and transcripts;

Report to congressional committees

“(2) the Foundation shall prepare an annual report to the Secretary, which shall also be submitted to the appropriate committees of the United States House of Representatives and



the United States Senate, summarizing the activities of the previous year (together with a comparison of goals and objectives with actual accomplishments) and presenting a plan for the forthcoming year; and

“(3) such cooperative agreement may be terminated at the convenience of the United States if the Secretary determines that such termination is required in the public interest.

Termination.

The cooperative agreement shall contain such other terms and conditions as the Secretary deems appropriate. Until such cooperative agreement is entered into, nothing in this section shall be construed to affect or impair the validity of the agreement between the National Park Service and the Foundation dated September 16, 1980. Such agreement shall remain in force and effect until terminated under the terms and conditions of such agreement or until an agreement is entered into under this section. Nothing in this section shall be construed to affect the authority of the Secretary under any other provision of law to enter into a contract or an agreement, not conflicting with the cooperative agreement described in this section, with any other organization or entity with respect to the administration of the park.

Terms and conditions

“Sec. 6. All right, title, and interest in the Center shall be vested in the United States. Nothing in this Act shall be construed to provide that the Foundation shall be considered to be a Federal agency or instrumentality for purposes of applying any law or regulation of the United States or of any State.

16 USC 284e

“Sec. 7. Following disbursement of any grant under this Act for the reconstruction of the Center, the Secretary shall submit quarterly reports to the appropriate committees of the United States House of Representatives and the United States Senate setting forth the progress of the reconstruction, any present or anticipated problems of any type, the financial projections for remaining work, and the progress made by the Foundation in raising funds for purposes of the reconstruction. The report shall set forth quarterly goals respecting the reconstruction of the Center and shall compare the performance during the prior quarter to the goals set forth for that quarter.

Reports to congressional committees  
16 USC 284f.

“Sec. 8. (a) The Secretary shall cooperate with, and seek cooperation from, other Federal, State, and local agencies (including the Federal Aviation Administration) to protect the park from undue noise intrusions, air pollution, and visual degradation.

16 USC 284g.

“(b) The Secretary shall monitor noise pollution which is associated with the Dulles road corridor (including the airport access and toll roads) and shall notify the Federal Aviation Administration, the Commonwealth of Virginia, and the appropriate committees of Congress if, after conferring with the Administrator of the Federal Aviation Administration, the Secretary finds that such noise pollution is exceeding the standards set forth in section 4(e). Within sixty days after any such notification, the Administrator of the Federal Aviation Administration shall take steps to reduce noise pollution so as to conform to such standards. The Secretary or the Foundation may bring an action in the United States District Court for the District of Columbia to enjoin any violation by the Commonwealth of Virginia of the easement referred to in section 4(e).

Noise pollution, monitoring.

“Sec. 9. A general management plan for the park shall be prepared and periodically revised in a timely manner in accordance with the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a through 1a-7). Such plan shall be submitted

Plan.  
16 USC 284h.

Submittal to congressional committees.

to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1984, and such revisions shall be submitted to such committees of the Congress in a timely manner.

Appropriation  
authorization.  
16 USC 284i.

“SEC. 10. There is authorized to be appropriated not more than \$17,000,000 to carry out sections 4 and 5 of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

Definitions.  
16 USC 284j.

“SEC. 11. As used in this Act, the term—

“(1) ‘Secretary’ means the Secretary of the Interior.

“(2) ‘Park’ means the Wolf Trap Farm Park established under this Act, including the Center.

“(3) ‘Center’ means the Filene Center in the Park. Such term includes all real property and fixtures which are within or directly related to the Filene Center.

“(4) ‘Foundation’ means the Wolf Trap Foundation for the Performing Arts organized pursuant to the District of Columbia Nonprofit Organization Act.

Short title.  
16 USC 284 note.

“SEC. 12. This Act may be referred to as the ‘Wolf Trap Farm Park Act’.”.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—H.R. 7293:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed House and Senate.

Public Law 97-311  
97th Congress

An Act

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut

Oct 14, 1982  
[H R. 6422]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a)(1) Subject to subsection (b), the Secretary of Agriculture shall release on behalf of the United States, with respect to the land—

Connecticut,  
release of U.S.  
interest in  
certain land.

(A) described in section 2 of this Act, and

(B) conveyed, along with certain other parcels of land situated within the town of Sterling, county of Windham, State of Connecticut, to the State of Connecticut by a quitclaim deed dated November 18, 1954,

the condition in such deed which requires that such lands be used for public purposes, and if not so used, that the lands revert to and revest in the United States: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release authorized in paragraph (1) of this subsection.

(b) The Secretary of Agriculture shall not execute the release authorized in subsection (a)(1) until the State of Connecticut, in consideration of such release, enters into an agreement satisfactory to the Secretary of Agriculture which provides that the State will not sell, lease, exchange, or otherwise dispose of the lands to which the release applies—

(1) except to the Ekonk Cemetery, Incorporated, of Sterling, Connecticut, exclusively for the expansion of its existing cemetery; and

(2) unless the proceeds from such disposal are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

SEC. 2. The land referred to in section 1(a)(1) is the certain parcel of land formerly vested in the United States (a portion of the land designated as the J. E. Tanner tract 6b) and situated in the town of Sterling, county of Windham, State of Connecticut, containing 0.93 acres of land, more or less, bounded and described as follows:

Beginning at a stonewall corner located in the southerly line of the Cedar Swamp Road, so-called, being the northeast corner of the herein described premises and the northwest corner of the existing Ekonk Cemetery, Incorporated; thence south 14 degrees, 49 minutes east, 152.1 feet, more or less, along a

stonewall to a wall corner; thence north 64 degrees, 50 minutes east, 145.7 feet, more or less, along a stonewall to a wall corner, the last two courses bounding easterly and northerly on the aforesaid Ekonk Cemetery, Incorporated; thence south 14 degrees, 53 minutes east, 50 feet, more or less, to an iron pin; thence south 64 degrees, 50 minutes west, 308 feet, more or less, to an iron pin; thence north 14 degrees, 49 minutes west, 204 feet, more or less, to an iron pin set in the southerly line of the aforesaid Cedar Swamp Road, the last three courses bounding easterly, southerly, and westerly on remaining land of the State of Connecticut; thence north 66 degrees, 26 minutes east, 162.9 feet, more or less, to a wall corner the place of beginning, bounding northerly on the said Cedar Swamp Road.

Approved October 14, 1982.

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**LEGISLATIVE HISTORY—H.R. 6422:**

HOUSE REPORT No. 97-773 (Comm. on Agriculture).

SENATE REPORT No. 97-571 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 13, considered and passed House.

Sept. 29, considered and passed Senate.

Public Law 97-312  
97th Congress

An Act

To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection and to improve the quality of table grapes for marketing in the United States.

Oct. 14, 1982

[H.R. 2035]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any employee of the United States Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employee is engaged in the performance of the employee's official duties to (1) carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable disease of livestock or poultry into the United States or (2) perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary.

Certain  
Agriculture  
Department  
employees,  
firearm  
authorization.  
7 USC 2274.

SEC. 2. The first sentence of section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e-1), is amended by inserting "table grapes," after "filberts,".

Approved October 14, 1982.

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LEGISLATIVE HISTORY—H.R. 2035:

HOUSE REPORT No. 97-515 (Comm. on Agriculture).  
SENATE REPORT No. 97-569 (Comm. on Agriculture, Nutrition, and Forestry).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

May 18, considered and passed House.  
Sept. 29, considered and passed Senate, amended.  
Sept. 30, House concurred in Senate amendments.

Public Law 97-313  
97th Congress

## An Act

Oct. 14, 1982

[H.R. 5658]

To authorize the use of education block grant funds to teach the principles of citizenship.

Education  
Consolidation  
and  
Improvement  
Act of 1981,  
amendment.  
95 Stat. 475.  
20 USC 3842.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 582(1) of the Education Consolidation and Improvement Act of 1981 is amended—

- (1) by striking out “and” at the end of clause (H);
- (2) by inserting “and” at the end of clause (I); and
- (3) by inserting after clause (I) the following new clause:  
“(J) programs to teach the principles of citizenship;”.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—H.R. 5658:

HOUSE REPORT No. 97-798 (Comm. on Education and Labor).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 14, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-314  
97th Congress

An Act

To designate the building known as the Federal Building and United States Courthouse in Greenville, South Carolina, as the "Clement F. Haynsworth, Jr., Federal Building", the building known as the Quincy Post Office in Quincy, Massachusetts, as the "James A. Burke Post Office", and the United States Post Office Building in Portsmouth, Ohio, as the "William H. Harsha United States Post Office Building".

Oct. 14, 1982

[H.R. 5941]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the building at 300 East Washington Street, in Greenville, South Carolina, known as the Federal Building and United States Courthouse, hereafter shall be known and designated as the "Clement F. Haynsworth, Jr., Federal Building".

Federal  
buildings,  
designations.  
Clement F.  
Haynsworth, Jr.  
Federal  
Building

SEC. 2. Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in the first section of this Act hereby is deemed to be a reference to the "Clement F. Haynsworth, Jr., Federal Building".

SEC. 3. The building located at 47 Washington Street, Quincy, Massachusetts, known as the Quincy Post Office, shall hereafter be known and designated as the "James A. Burke Post Office". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "James A. Burke Post Office".

James A. Burke  
Post Office.

SEC. 4. The United States Post Office Building located at the intersection of Sixth and Gay Streets, Portsmouth, Ohio, shall hereafter be named and designated as the "William H. Harsha United States Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "William H. Harsha United States Post Office Building".

William H.  
Harsha  
United States  
Post Office  
Building

Approved October 14, 1982.

LEGISLATIVE HISTORY—H.R. 5941:

HOUSE REPORT No. 97-866 (Comm. on Public Works and Transportation)  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 29, considered and passed House.  
Oct. 1, considered and passed Senate

Public Law 97-315  
97th Congress

## Joint Resolution

Oct. 14, 1982  
[H.J. Res. 588]

To provide for the designation of the month of October 1982, as "Head Start Awareness Month".

Whereas more than eight thousand Head Start centers located in every State and territory of the United States are currently serving preschool disadvantaged children and their families by providing health, educational, nutritional, and social services; Whereas eight million two hundred and sixty-nine thousand and four hundred children and their families have been served in Head Start since the program began in 1965;

Whereas Head Start has led the Nation in mainstreaming and providing early intervention services to handicapped children; Whereas Head Start has demonstrated outstanding leadership in the development of volunteerism;

Whereas Head Start has taken the initiative in developing successful parent involvement;

Whereas Head Start has been a frontrunner in collaborative efforts with other federally, State, and locally funded programs in the delivery of services; and

Whereas the United States Congress recognizes Head Start as the foremost early childhood program in the United States: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the month of October 1982 is designated as "Head Start Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities and ceremonies.

Head Start  
Awareness  
Month.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 588:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 29, considered and passed House.  
Oct. 1, considered and passed Senate.



Public Law 97-316  
97th Congress

Joint Resolution

To designate the week beginning November 28 through December 4, 1982, as  
“National Home Health Care Week”.

Oct. 14, 1982

[S.J. Res. 113]

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than three thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week beginning November 28 through December 4, 1982, hereby is designated “National Home Health Care Week”, and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

National Home  
Health Care  
Week.

Approved October 14, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 113:

CONGRESSIONAL RECORD:

Vol. 127 (1981). Oct. 30, considered and passed Senate.

Vol. 128 (1982): Sept. 21, considered and passed House, amended.

Oct. 1, Senate concurred in House amendments.

Public Law 97-317  
97th Congress

Joint Resolution

Oct. 14, 1982  
[S.J. Res. 197]

To provide for the designation of the week of October 17 through October 23, 1982, as "Myasthenia Gravis Awareness Week".

Whereas the incidence and prevalence of myasthenia gravis present a significant health problem in the United States;

Whereas myasthenia gravis is a severe neuromuscular disorder, characterized by weakness of the voluntary muscles of the body;

Whereas an estimated one hundred thousand to two hundred thousand diagnosed, and over one hundred thousand undiagnosed, Americans of both sexes, and all races and ages, are afflicted with the disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of myasthenia gravis;

Whereas it is appropriate to focus the Nation's attention upon the problem of myasthenia gravis: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week of October 17 through October 23, 1982, is designated as "Myasthenia Gravis Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 14, 1982.

Myasthenia  
Gravis  
Awareness Week.

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LEGISLATIVE HISTORY—S.J. Res. 197:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 19, considered and passed Senate.  
Sept. 30, considered and passed House.

Public Law 97-318  
97th Congress

Joint Resolution

To proclaim March 21, 1983, as "National Agriculture Day".

Oct 14, 1982  
[S.J. Res. 235]

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together, provide more jobs than any other single industry; and Whereas the productivity of agriculture is a vital ingredient in our strength as a Nation, both domestically and on the world scene; and

Whereas, to maintain a healthy agriculture, it is necessary that all the people of the United States understand how agriculture affects their lives and well-being, and be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That March 21, 1983, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

National  
Agriculture Day

Approved October 14, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 235:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 15, considered and passed Senate.

Sept. 30, considered and passed House.

## Public Law 97-319

97th Congress

## Joint Resolution

Oct. 14, 1982

[S.J. Res. 249]

To provide for the designation of the month of October 1982, as "National Spinal Cord Injury Month".

Whereas spinal cord injuries now paralyze over five hundred thousand Americans;

Whereas there are twenty thousand new spinal cord injuries per year;

Whereas most spinal cord injuries involve young people and are the result of motor vehicle accidents, sports and recreational activities, or of service in our Nation's Armed Forces;

Whereas lifetime costs to sustain a person with a spinal cord injury are between \$1,000,000 and \$5,000,000, representing a major and expensive medical problem for this country;

Whereas research advances have permitted scientists to predict that we will be able to prevent and cure paralysis for hundreds of thousands of people;

Whereas the general public is unaware of the staggering costs and personal consequences of spinal cord injury;

Whereas programs of the National Spinal Cord Injury Association, the Paralyzed Veterans of America and other similar organizations are dedicated to funding research and helping all paralyzed persons; and

Whereas an increase in the national awareness of the problem of spinal cord injuries may ease the burden of the victims and families of victims and may stimulate interest in increased research for the cure of spinal cord injury paralysis: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the month of October is designated as "National Spinal Cord Injury Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities.

Approved October 14, 1982.

National Spinal  
Cord Injury  
Month.

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LEGISLATIVE HISTORY—S.J. Res. 249 (H.J. Res. 598):

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, H.J. Res. 598 considered and passed House.

Oct. 1, considered and passed Senate and House.

Public Law 97-320  
97th Congress

An Act

To revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans.

Oct. 15, 1982

[H.R. 6267]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Garn-St  
Germain  
Depository  
Institutions Act  
of 1982.

12 USC 226 note.

SHORT TITLE

SECTION 1. This Act may be cited as the “Garn-St Germain Depository Institutions Act of 1982”.

TITLE I—DEPOSIT INSURANCE FLEXIBILITY

Deposit  
Insurance  
Flexibility Act.

SHORT TITLE

SEC. 101. This title may be cited as the “Deposit Insurance Flexibility Act”.

12 USC 1811  
note.

PART A—FEDERAL DEPOSIT INSURANCE CORPORATION AMENDMENTS

ASSISTANCE TO INSURED BANKS

SEC. 111. Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended to read as follows:

“(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured bank—

“(A) if such action is taken to prevent the closing of such insured bank;

“(B) if, with respect to a closed insured bank, such action is taken to restore such closed insured bank to normal operation; or

“(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

“(2)(A) In order to facilitate a merger or consolidation of an insured bank described in subparagraph (B) with an insured institution or the sale of assets of such insured bank and the assumption of such insured bank's liabilities by an insured institution, or the acquisition of the stock of such insured bank, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe—

“(i) to purchase any such assets or assume any such liabilities;

“(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

“(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of such insured institution’s merging or consolidating with or assuming the liabilities and purchasing the assets of such insured bank or by reason of such company acquiring control of such insured bank; or

“(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

“(B) For the purpose of subparagraph (A), the insured bank must be an insured bank—

“(i) which is closed;

“(ii) which, in the judgment of the Board of Directors, is in danger of closing; or

“(iii) which, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

12 USC 1823.

“(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured bank under section 13(f) of this Act with such financial assistance as it could provide an insured institution under this subsection.

“(4)(A) No assistance shall be provided under this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating, including paying the insured accounts of, such insured bank, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured bank is essential to provide adequate banking services in its community.

“(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured bank. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interest.

“(5)(A) During any period in which an insured bank has received assistance under this subsection and such assistance is still outstanding, such insured bank may defer the payment of any State or local tax which is determined on the basis of the deposits held by such insured bank or of the interest paid on such deposits.

“(B) When such insured bank no longer has any outstanding assistance, such insured bank shall pay all taxes which were deferred under subparagraph (A). Such payments shall be made in accordance with a payment plan established by the Corporation, after consultation with the applicable State and local taxing authorities.

“(6) Any assistance provided under this subsection may be in subordination to the rights of depositors and other creditors.

“(7) In its annual report to the Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

Report to Congress.

“(8) For purposes of this subsection, the term ‘insured institution’ means an insured bank as defined in section 3 of this Act or an insured institution as defined in section 401 of the National Housing Act.”.

“Insured institution.”

FEDERAL DEPOSIT INSURANCE CORPORATION; INSURED FEDERAL SAVINGS BANKS

SEC. 112. Section 5 of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

“(o)(1) Notwithstanding any other provision of this section, the Board, subject to the provisions of this subsection, may authorize, under the rules and regulations of the Board, the conversion of a State-chartered savings bank insured by the Federal Deposit Insurance Corporation into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, and regulation of such institution.

“(2)(A) The Federal Deposit Insurance Corporation shall insure the deposit accounts of any Federal savings bank chartered pursuant to this subsection, until such time as the accounts of such institution are insured by the Federal Savings and Loan Insurance Corporation.

“(B) The Board shall provide the Federal Deposit Insurance Corporation with notification of any application under this Act for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall provide said Corporation with notification of the Board’s determination with respect to such application.

“(C) The Federal Deposit Insurance Corporation shall have the power to make special examinations of any Federal savings bank it insures and for which the Board of Directors of the Federal Deposit Insurance Corporation determines an examination is necessary to determine the condition of the bank for insurance purposes.

“(D) Except with the prior written approval of the Federal Deposit Insurance Corporation, no Federal savings bank insured by the Federal Deposit Insurance Corporation shall—

“(i) merge or consolidate with any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation;

“(ii) assume liability to pay any deposits made in, or similar liabilities of, any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation; or

“(iii) transfer assets to any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation in consideration of the assumption of liabilities for any portion of the deposits made in such bank.

“(E) In granting any approval required by paragraph (D) of this subsection, the Board of Directors of the Federal Deposit Insurance Corporation shall consider the financial and managerial resources and the future prospects of the existing and proposed institutions.

“(F) Notwithstanding section 402(j) of the National Housing Act, any provision of the constitution or laws of any State, or paragraph (1) of this subsection, if the Federal Deposit Insurance Corporation determines conversion into a Federal stock savings bank or

12 USC 1725.

the chartering of a Federal stock savings bank is necessary to prevent the closing of a savings bank it insures or to reopen a closed savings bank it insured, or if the Federal Deposit Insurance Corporation determines, with the concurrence of the Board, that severe financial conditions exist that threaten the stability of a savings bank insured by such Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Federal Deposit Insurance Corporation shall provide to the Board a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank, without further action by the Board, shall be converted or chartered by the Board, pursuant to the rules and regulations thereof, from the time the Federal Deposit Insurance Corporation issues such certificate.

“(G) A bank may be converted under subparagraph (F) only where the board of trustees of the bank—

“(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

“(ii) has requested in writing that the Corporation use the authority of subparagraph (F).

“(H)(i) Before making a determination under subparagraph (F), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of subparagraph (F).

“(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (F) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

“(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

“(4) For purposes of the Bank Protection Act of 1968, the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Depository Institution Management Interlocks Act, the Depository Institutions Deregulation Act of 1980, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, and section 12(i) of the Securities Exchange Act of 1934, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall be regarded as an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

“(5) Notwithstanding any limitation contained in the National Housing Act, the Federal Savings and Loan Insurance Corporation, in its sole discretion, and on such terms and conditions as it shall determine, may provide the Federal Deposit Insurance Corporation with financial assistance or guarantees in connection with a transaction subject to paragraph (2)(D) or section 18(c) of the Federal Deposit Insurance Act.”.

12 USC 1881  
note, 2801 note,  
2901 note, 3201  
note, 3501 note.  
15 USC 1601  
note, 1691 note,  
1692 note, 1693  
note, 78*l*.



## CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 113. (a) Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended—

(1) in paragraph (2) thereof, by striking out “and” at the end thereof;

(2) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following:

“(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.”.

(b) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following:

“Insured  
Federal  
savings bank.”

“(t) The term ‘insured Federal savings bank’ means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners’ Loan Act of 1933 and insured by the Corporation.”.

*Ante*, p. 1471.

(c) Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by inserting at the end thereof the following:

“(c) Every Federal savings bank which is chartered pursuant to section 5(o) of the Home Owners’ Loan Act of 1933, and which is engaged in the business of receiving deposits other than trust funds, shall be an insured bank from the time it is authorized to commence business, until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation.”.

(d) Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by inserting “(A)” after “(2)” and by inserting at the end thereof the following:

“(B) The Corporation shall have access to reports of examination made by, and reports of condition made to, the Federal Home Loan Bank Board or any Federal Home Loan Bank, respecting any insured Federal savings bank, and the Corporation shall have access to all revisions of reports of condition made to either such agency. Such agency shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition.”.

(e) The first sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: “Each insured State nonmember bank (except a District bank) and each foreign bank having an insured branch (other than a Federal branch) shall make to the Corporation, each insured national bank, each foreign bank having an insured branch which is a Federal branch, and each insured District bank shall make to the Comptroller of the Currency, each insured State member bank shall make to the Federal Reserve bank of which it is a member, and each insured Federal savings bank shall make to the Federal Home Loan Bank Board, four reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Federal Home Loan Bank Board.”.

(f) Section 7(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(6)) is amended by inserting “, the Federal Home Loan Bank Board,” after “Comptroller of the Currency”.

(g) Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) in the second sentence thereof, by inserting after "district bank," the following: "to the Federal Home Loan Bank Board in the case of an insured Federal savings bank,"; and

(2) in the third sentence thereof, by inserting after "national bank," the following: "or the Federal Home Loan Bank Board in the case of an insured Federal savings bank,".

(h) Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended by inserting at the end thereof the following: "Whenever the insured status of an insured Federal savings bank shall be terminated by action of the Board of Directors, the Federal Home Loan Bank Board shall appoint a receiver for the bank, which shall be the Corporation.".

(i) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended in the second sentence thereof by inserting after "or District bank," the following: "or any insured Federal savings bank,".

(j) Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by inserting at the end thereof the following: "Notwithstanding any other provision of law, whenever the Federal Home Loan Bank Board shall appoint a receiver, other than a conservator, of any insured Federal savings bank hereafter closed, it shall appoint the Corporation receiver for such closed insured Federal savings bank.".

(k) Section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)) is amended in the first sentence by inserting after "District bank," the following: "or closed insured Federal savings bank,".

(l) Section 12(a) of the Federal Deposit Insurance Act (12 U.S.C. 1822(a)) is amended by inserting after "foreign bank," the following: "insured Federal savings bank,".

(m) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) in subsection (e)—

(A) by inserting "(e)" before "No agreement"; and

(B) by striking out the first paragraph of such subsection.

(n) Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by inserting at the end thereof the following:

"(12) The provisions of this subsection shall not apply to any merger transaction involving an insured Federal savings bank unless the resulting institution will be an insured bank other than an insured Federal savings bank.".

(o) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following:

"(4) The provisions of this subsection shall not apply to an insured Federal savings bank.".

(p) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c) is amended—

(1) by inserting "(a)" after "Sec. 26.";

(2) in subsection (a), as so redesignated under paragraph (1), by adding at the end thereof the following: "The provisions of this subsection shall apply only to mergers, consolidations, or conversions consummated and effective prior to the effective date of the Depository Institutions Amendments of 1982 or mergers, consolidations, or conversions for which applications have been received at a regional Federal Home Loan Bank prior to such effective date."; and

(3) by adding at the end thereof the following:

“(b) No transaction involving a change of deposit insurance agencies from the Corporation to the Federal Savings and Loan Insurance Corporation shall be deemed a termination of insured status under section 8(a) of this Act.”.

12 USC 1818.

(q) Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended by adding at the end thereof the following: “This subsection shall not apply to an insured Federal savings bank.”.

#### CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 114. (a) Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

“Association.”

“(d) The term ‘association’ means a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to such Federal savings banks, unless the context indicates otherwise.”.

12 USC 1464.

(b) Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended—

(1) in paragraph (B), by inserting after “Federal Savings and Loan Insurance Corporation” the following: “or the Federal Deposit Insurance Corporation”;

(2) in the second sentence of subparagraph (D), by inserting after “shall appoint” the following: “, except as hereafter provided,”; and

(3) by inserting at the end of subparagraph (D): “In the case of a Federal savings bank chartered pursuant to subsection (c) and insured by the Federal Deposit Insurance Corporation, the Board shall appoint only the Federal Deposit Insurance Corporation as receiver for the association and the Federal Deposit Insurance Corporation shall have the same powers as receiver as those powers granted by this paragraph to the Federal Savings and Loan Insurance Corporation as receiver of other associations.”.

(c) Section 5(d)(11) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(11)) is amended by striking out “with other” and inserting in lieu thereof “with associations or with any”.

#### CONFORMING AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 115. (a) Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended to read as follows:

“(a)(1) It shall be the duty of the Corporation to insure the accounts of all Federal savings and loan associations, and all Federal savings banks, except for Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation.

“(2) The Corporation may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks organized and operated according to the laws of the State, District, territory, or possession in which they are chartered or organized, and of savings banks chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933.”.

*Ante*, p. 1471.

(b) Subparagraphs (A) and (B) of section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) are amended to read as follows:

"Insured  
institution."

"(A) 'insured institution' means a Federal savings and loan association, a Federal savings bank, a building and loan, savings and loan or homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

"Uninsured  
institution."

"(B) 'uninsured institution' means any association or bank referred to in subparagraph (A), the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;"

(c) Section 407(m) of the National Housing Act (12 U.S.C. 1730(m)) is amended by adding at the end thereof the following:

"(4) The Federal Home Loan Bank Board, or its designated representative, shall have the same power with respect to a Federal association, or affiliate thereof, the deposits of which are insured by the Federal Deposit Insurance Corporation as it or the Corporation has under paragraphs (1) and (2) of this subsection with respect to insured institutions, or their affiliates."

(d) Section 407(l)(6) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation."

(e) Section 407(q)(13) of the National Housing Act (12 U.S.C. 1730(q)(13)) is amended by inserting "(A)" after "(13)" and by adding at the end thereof the following:

"(B) For the purposes of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation."

#### EXTRAORDINARY ACQUISITIONS

SEC. 116. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by inserting after subsection (e) the following:

"(f)(1) Nothing contained in paragraphs (2) or (3) shall be construed to limit the Corporation's powers in subsection (c) to assist a transaction under paragraphs (2) or (3).

"(2)(A) Whenever an insured bank with total assets of \$500,000,000 or more (as determined from its most recent report of condition) is closed, the Corporation, as receiver, may, in its discretion and upon such terms and conditions as the Corporation may determine, arrange the sale of assets of the closed bank and the assumption of the liabilities of the closed bank, including the sale of such assets to and the assumption of such liabilities by an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

"(B)(i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the closed insured bank was chartered.

“(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

“(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

“(3)(A)(i) Whenever the Corporation has determined, in its discretion, that an insured bank organized in mutual form with total assets of \$500,000,000 or more (as determined from its most recent report of condition) is in danger of closing, the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company.

“(ii) Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

“(B) The Corporation may make a determination under paragraph (A) only where the board of trustees of the insured bank and the appropriate Federal or State chartering authority have specified in writing that the bank is in danger of closing and have requested in writing that the Corporation assist a merger or a purchase.

“(C)(i) Before making a determination under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered.

“(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph.

“(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

“(4)(i) Notwithstanding section 3(d) of the Bank Holding Company Act of 1956 or any other provision of law, State or Federal, or the constitution of any State, an institution that merges with or acquires an insured bank under paragraph (2) or (3) is authorized to be and shall be operated as a subsidiary of an out-of-State bank or bank holding company, except that an out-of-State bank may operate the resulting institution as a subsidiary only if such ownership is otherwise specifically authorized.

12 USC 1842.

“(ii) Any subsidiary created by operation of this subsection may retain and operate any existing branch or branches of the institution merged with or acquired under paragraph (2) or (3), but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

“(iii) No insured institution acquired under this subsection shall after it is acquired move its principal office or any branch office which it would be prohibited from moving if the institution were a national bank.

“(5) In determining whether to arrange a sale of assets and assumption of liabilities or to permit an acquisition or a merger

under the authority of paragraph (2) or (3), the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the closed bank or the bank in danger of closing.

“(6)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the ‘lowest acceptable offer’), is from an offeror that is not an existing in-State bank of the same type as the bank that has closed or is in danger of closing (or, where the closed bank is an insured bank other than a mutual savings bank, the lowest acceptable offer is not from an in-State bank holding company), the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or \$15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

“(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

“(i) First, between depository institutions of the same type within the same State;

“(ii) Second, between depository institutions of the same type in different States;

“(iii) Third, between depository institutions of different types in the same State; and

“(iv) Fourth, between depository institutions of different types in different States.

“(C) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

“(D) In determining the cost of offers and reoffers, the Corporation’s calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

“(7) No sale may be made under the provisions of paragraph (2) or (3)—

“(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

“(B) whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Corporation finds that the anticompetitive effects of the proposed transactions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Definitions.

“(8) As used in this subsection—

“(A) the term ‘receiver’ means the Corporation when it has been appointed the receiver of a closed insured bank;

“(B) the term ‘insured depository institution’ means an insured bank or an association or savings bank insured by the Federal Savings and Loan Insurance Corporation; and

“(C) the term ‘in-State depository institution or in-State holding company’ means an existing insured depository institution currently operating in the State in which the closed bank or the bank in danger of closing is chartered or a company that is

operating an insured depository institution subsidiary in the State in which the closed bank or the bank in danger of closing is chartered.”.

#### ASSESSMENTS

SEC. 117. The third sentence of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended—

(1) by striking out “and” before “(3) the insurance losses”; and

(2) by inserting before the period at the end thereof the following: “; and (4) any lending costs for the calendar year, which costs shall be equal to the amount by which the amount of interest earned, if any, from each loan made by the Corporation under section 13 of this Act after January 1, 1982, is less than the amount which the Corporation would have earned in interest for the calendar year if interest had been paid on such loan during such calendar year at a rate equal to the average current value of funds to the United States Treasury for such calendar year”.

12 USC 1823

#### WAIVER OF NOTICE REQUIREMENTS

SEC. 118. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: “. Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing;”.

(b) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended by—

(1) striking out “or” before “(3)”; and

(2) by inserting before the period at the end thereof the following: “or (4) a Federal savings bank”.

(c) The first sentence of section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting after “no application” the following: “(except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act)”.

*Ante*, p. 1476.

### PART B—FEDERAL HOME LOAN BANK BOARD AMENDMENTS

#### FEDERAL STOCK SAVINGS INSTITUTIONS

SEC. 121. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by section 112, is amended by adding at the end thereof the following:

“(p)(1) Notwithstanding any other provision of Federal law or the laws or constitution of any State, and consistent with the purposes of this Act, the Board may authorize (or in the case of a Federal association, require) the conversion of a mutual savings and loan association or Federal mutual savings bank that is insured by the Federal Savings and Loan Insurance Corporation into a Federal stock savings and loan association or Federal stock savings bank, or

charter a Federal stock savings and loan association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the rules and regulations of the Board.

“(2) Authorizations under this subsection may be made only to assist an institution in receivership, or if the Board has determined that severe financial conditions exist which threaten the stability of an institution and that such authorization is likely to improve the financial condition of the institution, or when the Federal Savings and Loan Insurance Corporation has contracted to provide assistance to such institution under section 406 of the National Housing Act.

12 USC 1729.

“(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provisions of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.”.

#### ASSISTANCE TO THRIFT INSTITUTIONS

SEC. 122. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

“(f)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured institution—

“(A) if such action is taken to prevent the default of such insured institution;

“(B) if, with respect to an insured institution in default, such action is taken to restore such insured institution in default to normal operation; or

“(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured institutions or of insured institutions possessing significant resources, such action is taken in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

“(2)(A) In order to facilitate a merger or consolidation of an insured institution described in subparagraph (B) with another insured institution or the sale of assets of such insured institution and the assumption of such insured institution's liabilities by another insured institution, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe—

“(i) to purchase any such assets or assume any such liabilities;

“(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation);

“(iii) to guarantee such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation) against loss by reason of such other insured institution's



merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution; or

“(iv) to take any combination of the actions referred to in clauses (i) through (iii).

“(B) An insured institution described in this subparagraph—

“(i) is an insured institution which is in default;

“(ii) is an insured institution which, in the judgment of the Corporation is in danger of default; or

“(iii) is an insured institution which, when severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

“(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured institution under section 408(m) of this Act with such financial assistance as it could provide an insured institution under this subsection.

*Post*, p. 1483.

“(4) (A) No assistance shall be provided under paragraph (1), (2), or (3) of this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating (including paying the insured accounts of) such insured institution, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured institution is essential to provide adequate savings or home financing services in its community.

“(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured institution. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.”

(b) Section 406(b) of the National Housing Act (12 U.S.C. 1729(b)) is amended to read as follows:

“(b)(1) In the event that a Federal association is in default, the Corporation shall be appointed as conservator or receiver and as such—

“(A) is authorized—

“(i) to take over the assets of and operate such association;

“(ii) to take such action as may be necessary to put it in a sound solvent condition;

“(iii) to merge it with another insured institution;

“(iv) to organize a new Federal association to take over its assets;

“(v) to proceed to liquidate its assets in an orderly manner; or

“(vi) to make such other disposition of the matter as it deems appropriate;

whichever it deems to be in the best interest of the association, its savers, and the Corporation; and

“(B) shall pay all valid credit obligations of the association.

“(2) The corporation shall pay insurance as provided in section 405. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.

“Federal  
association.”

“(3) As used in this section, the term ‘Federal association’ means a Federal savings and loan association or a Federal savings bank.”.

(c) Section 406(c) of the National Housing Act (12 U.S.C. 1729(c)) is amended by striking out “savings and loan” wherever it appears.

(d) Section 406(c)(1) of the National Housing Act (12 U.S.C. 1729(c)(1)) is amended by inserting “(A)” after “(c)(1)” and by adding at the end thereof the following:

“(B)(i)(I) Notwithstanding any provision of the constitution or laws of any State, or of this section, in the event the Federal Home Loan Bank Board determines that any of the grounds specified in section 5(d)(6)(A) (i), (ii), or (iii) of the Home Owners’ Loan Act of 1933 exist with respect to an insured institution, other than a Federal association, the Board shall have exclusive power and jurisdiction to appoint the Corporation as sole conservator or receiver of such institution.

12 USC 1464.

“(II) In such cases the corporation shall have the same powers and duties with respect to insured institutions as are conferred upon it under subsection (b) of this section with respect to Federal associations.

“(ii)(I) The authority conferred by this subparagraph shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered insured institution that the grounds specified for such exercise exist.

“(II) If such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State’s written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board. The corporation may also proceed without State approval if the Corporation has been appointed conservator, receiver, or other legal custodian pursuant to State law under subparagraph (A).”.

(e) The first sentence of section 406(c)(2) of the National Housing Act (12 U.S.C. 1729(c)(2)) is amended by inserting “conservator or” after “sole”.

(f) Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)) is amended—

(1) by inserting “conservator or” before “receiver” wherever it appears therein;

(2) by striking out “paragraph (2)” and inserting in lieu thereof “paragraphs (1) or (2)”; and

(3) by striking out the second sentence.

(g) Section 406(d) of the National Housing Act (12 U.S.C. 1729(d)) is amended to read as follows:

“(d) In connection with the liquidation of insured institutions, the Corporation shall have power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things that may be necessary in connection

therewith, subject only to the regulation of the Federal Home Loan Bank Board, or, in cases where the Corporation has been appointed conservator, receiver, or legal custodian solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority.”.

#### EMERGENCY THRIFT ACQUISITIONS

SEC. 123. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

“(m)(1)(A)(i) Notwithstanding any provision of the laws or constitution of any State or any provision of Federal law, except as provided in subsections (e)(2) and (1) of this section, and in clause (iii) of this subparagraph, the Corporation, upon its determination that severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, may authorize, in its discretion and where it determines such authorization would lessen the risk to the Corporation, an insured institution that is eligible for assistance pursuant to section 406(f) of this Act to merge or consolidate with, or to transfer its assets and liabilities to, any other insured institution or any insured bank (as such term ‘insured bank’ is defined in section 3(h) of the Federal Deposit Insurance Act), may authorize any other insured institution to acquire control of said insured institution, or may authorize any company to acquire control of said insured institution or to acquire the assets or assume the liabilities thereof.

*Post*, p. 1489.

12 USC 1813.

“(ii) Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

“(iii) Where otherwise required by law, transactions under this subsection must be approved by the primary Federal supervisor of the party thereto that is not an insured institution.

“(B)(i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

“(ii) The State official shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

“(iii) If the State official objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State official, as soon as practicable, a written certification of its determination.

“(2) In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the insured institution.

“(3)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the ‘lowest acceptable offer’), is from an institution that is not an existing in-State insured institution or an in-State savings and loan holding company, the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15

per centum or \$15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

“(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

“(i) First, between depository institutions of the same type within the same State;

“(ii) Second, between depository institutions of the same type in different States;

“(iii) Third, between depository institutions of different types in the same State; and

“(iv) Fourth, between depository institutions of different types in different States.

“(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.

“(D) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

“(E) In determining the cost of offers and reoffers under this subsection, the Corporation’s calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

Definitions.

“(4) For purposes of this subsection—

“(A) the term ‘insured depository institution’ means an insured institution or a bank insured by the Federal Deposit Insurance Corporation; and

“(B) the term ‘in-State depository institution or in-State depository institution holding company’ means an existing insured depository institution currently operating in the State in which the closed institution is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed institution is chartered.

“(5)(A) Where a merger, consolidation, transfer, or acquisition under this subsection involves an insured institution eligible for assistance and a bank or bank holding company, an insured institution may retain and operate any existing branch or branches or any other existing facilities but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

“(B) No such insured institution shall move its principal office or any branch office after it is acquired which it would be prohibited from moving if it were a national bank.

“(C)(i) Notwithstanding the foregoing, if such an insured institution does not have its home office in the State of the bank holding company bank subsidiary, and if such institution does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, then such insured institution shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the insured institution is located.

“(ii) The Corporation, for good cause shown, may allow insured institutions up to two years to comply with the requirements of clause (i).”.

(b) Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended—

(1) in the first sentence, by inserting after “subsection” the following: “, or any transaction under subsection (m) of this section,”; and

(2) in the third sentence, by inserting after “acquisition,” the following: “except a transaction under subsection (m) of this section,”.

#### ASSISTANCE TO FEDERAL HOME LOAN BANKS MEMBERS

SEC. 124. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by inserting “(a)” after “SEC. 16.” and by adding at the end thereof the following:

“(b) Notwithstanding subsection (a) or any other provision of this Act, if the Board determines that severe financial conditions exist threatening the stability of member institutions, the Board may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.”.

#### BORROWING AUTHORITY

SEC. 125. (a) The first sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by inserting before the period at the end thereof the following: “, except that interest on loans from the Federal Home Loan Banks shall be not less than their current marginal cost of funds, taking into account the maturities involved, and loans from the Federal Home Loan Banks shall be adequately secured, as determined by the Board”.

(b) The first sentence of section 402(i) of the National Housing Act (12 U.S.C. 1725(i)) is amended—

(1) by striking out “any other source” and inserting in lieu thereof “any source other than the Federal Home Loan Banks”; and

(2) by inserting “from the Treasury” after “*Provided, That* each such loan”.

(c) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end thereof the following:

“(k) The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 402(d) of the National Housing Act.”.

#### INSURANCE FUND RESERVES

SEC. 126. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

“(h) Notwithstanding any other provision of this section, the Corporation, upon its determination that extraordinary financial

conditions exist increasing the risk to the Corporation, may terminate distribution of shares of the secondary reserve and utilize said reserve on the same basis as the primary reserve. If otherwise authorized, the Corporation may resume such distribution upon its determination that said conditions no longer exist.”.

#### FEDERAL HOME LOAN BANK ACT

SEC. 127. Section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)) is amended by inserting after the first sentence the following: “Notwithstanding any other provision of law, the Board may from time to time make such provision as it deems appropriate authorizing the performance by any officer, employee, agent, or administrative unit thereof of any function of the Board (including any function of the Federal Savings and Loan Insurance Corporation), except with regard to promulgation of rules and regulations in accordance with the Administrative Procedure Act, and adjudications subject to such Act.”.

#### CONTINUATION OF INSURANCE

SEC. 128. Section 405(a) of the National Housing Act (12 U.S.C. 1728(a)) is amended by adding after the first sentence the following: “Whenever the liabilities of an insured institution for accounts shall have been assumed by another insured institution or institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, all accounts so assumed shall have separate insurance which shall terminate at the end of six months from the date such assumption takes effect or, in the case of any certificate account, the earliest maturity date after the six-month period.”.

#### PART C—CREDIT UNIONS

##### CREDIT UNION MERGERS

SEC. 131. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following:

“(h) Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that—

“(1) an emergency requiring expeditious action exists with respect to such other insured credit union;

“(2) other alternatives are not reasonably available; and

“(3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

“(i)(1) Notwithstanding any other provision of this Act or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to

effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

“(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union’s members with respect to those accounts.”.

#### BOARD’S AUTHORITY AS CONSERVATOR

SEC. 132. (a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by redesignating subsections (h) through (o) as subsections (i) through (p), respectively; and

(2) by inserting after subsection (g) the following new subsection:

“(h)(1) The Board may, *ex parte* without notice, appoint itself as conservator and immediately take possession and control of the business and assets of any insured credit union in any case in which—

“(A) the Board determines that such action is necessary to conserve the assets of any insured credit union or to protect the Fund or the interests of the members of such insured credit union; or

“(B) an insured credit union, by a resolution of its board of directors, consents to such an action by the Board.

“(2)(A) In the case of a State-chartered insured credit union, the authority conferred by paragraph (1) shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered credit union that the grounds specified for such exercise exist.

“(B) If such approval has not been received by the Board within ninety days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State’s written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board.

“(3) Not later than ten days after the date on which the Board takes possession and control of the business and assets of an insured credit union pursuant to paragraph (1), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be enjoined from continuing such possession and control.

“(4) Except as provided in paragraph (3), in the case of a Federal credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

“(A) as the Board shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the Board; or

“(B) as such credit union is liquidated in accordance with the provisions of section 207.

“(5) Except as provided in paragraph (3), in the case of an insured State-chartered credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

“(A) as the Board shall permit such credit union to continue business, subject to such terms and conditions as may be imposed by the Board;

“(B) as the Board shall permit the transfer of possession and control of such credit union to any commission, board, or authority which has supervisory authority over such credit union and which is authorized by State law to operate such credit union; or

“(C) as such credit union is liquidated in accordance with the provisions of section 207.

“(6) The Board may appoint such agents as it considers necessary in order to assist the Board in carrying out its duties as a conservator under this subsection.

“(7) All expenses incurred by the Board in exercising its authority under this subsection with respect to any credit union shall be paid out of the assets of such credit union.

“(8) The authority granted by this subsection is in addition to all other authority granted to the Board under this Act.”

(b) Section 206(b)(2) of the Federal Credit Union Act (12 U.S.C. 1786(b)(2)) is amended by striking out “subsection (i)” and inserting in lieu thereof “subsection (j)”.

(c) Section 206(j)(1) of such Act (12 U.S.C. 1786(j)(1)), as so redesignated by subsection (a), is amended—

(1) in the first sentence, by striking out “subsection (h)(3)” and inserting in lieu thereof “subsection (i)(3)”; and

(2) in the fourth sentence, by striking out “subsection (i)” and inserting in lieu thereof “subsection (j)”.

(d) The first sentence of section 206(j)(2) of such Act (12 U.S.C. 1786(j)(2)), as redesignated by subsection (a), is amended by striking out “subsection (h)(1)” and inserting in lieu thereof “subsection (i)(1)”.

(e) The first sentence of section 206(l) of such Act (12 U.S.C. 1786(l)), as redesignated by subsection (a), is amended by striking out “(h)” and inserting in lieu thereof “(i)”.

(f) Section 206(m) of such Act (12 U.S.C. 1786(m)), as redesignated by subsection (a), is amended—

(1) by striking out “subsection (i)” and inserting in lieu thereof “subsection (j)”; and

(2) by striking out “subsection (h)” and inserting in lieu thereof “subsection (i)”.

(g) The section heading for section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting “; TAKING POSSESSION OF BUSINESS AND ASSETS” after “COMMITTEE MEMBERS”.

## PART D—SUNSET PROVISION

### SUNSET OF CERTAIN PROVISIONS

SEC. 141. (a) Effective upon the expiration of three years after the date of enactment of this Act—

(1) section 13(c)(5) of the Federal Deposit Insurance Act, as added by section 111 of this Act, shall be repealed;

12 USC 1464  
note.

*Ante*, p. 1469.



(2) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners' Loan Act of 1933, as added by section 112 of this Act, shall be repealed; *Ante*, p. 1471.

(3) the provision of law amended by section 116 of this Act shall be amended to read as it would without such amendment; 12 USC 1823.

(4) the provisions of law amended by subsections (a) and (c) of section 118 shall be amended to read as they would without such amendments; 12 USC 1843, 1842.

(5) the provision of law amended by section 121 of this Act shall be amended to read as it would without such amendment; 12 USC 1464.

(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act shall be amended to read as they would without such amendments; 12 USC 1729.

(7) the provisions of law amended by section 123 of this Act shall be amended to read as they would without such amendments; and 12 USC 1730a.

(8) the provisions of law amended by sections 131 and 132 shall be amended to read as they would without such amendments. 12 USC 1785, 1786.

(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect. 12 USC 1464 note.

## TITLE II—NET WORTH CERTIFICATES

Net Worth  
Certificate Act.

### SHORT TITLE

SEC. 201. This title may be cited as the "Net Worth Certificate Act". 12 USC 1811 note.

### INSURED INSTITUTIONS

SEC. 202. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), as amended by section 122 of this Act, is amended by adding at the end thereof the following:

"(5)(A)(i) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act or the Home Owners' Loan Act of 1933, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be known as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such qualified institution, and may authorize such institution to issue such net worth certificates, pursuant to this paragraph. 12 USC 1461.

"(ii) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

"(iii) In making a determination under this paragraph, the State supervisor of the State in which a State chartered institution which is the subject of the eligibility determination is located shall be consulted.

"(iv) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations

"Qualified  
institution."

subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

"(B) For the purposes of this paragraph, the term 'qualified institution' means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

"(i) has net worth equal to or less than 3 per centum of its assets;

"(ii) has incurred losses during the two previous quarters;

"(iii) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

"(iv) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(v) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(vi) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

"(C)(i) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will have positive net worth for a period of at least six months after such certificates are purchased.

"(ii) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to make specified management personnel changes if the Corporation finds that if such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

"(D) In any case where the staff of the Corporation finds for the purpose of subparagraph (C) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff's findings by, the Board.

"(E) The Corporation may initially purchase net worth certificates as follows:

"(i) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per

centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(ii) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(iii) With respect to a qualified institution having net worth less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(F) In the exercise of its authority under this paragraph, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in subparagraph (E), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution’s operating losses incurred for the immediately preceding period.

“(G) No assistance may be provided to a qualified institution pursuant to this paragraph if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with paragraph (1) or (2) of this subsection.

“(H) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, (ii) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (iii) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution’s net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph, continuing operations, or paying interest or dividends.

“(I) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this paragraph, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

“(J) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes.

“(K) The Corporation may not use its authority under this paragraph to purchase the voting or common stock of a qualified institution. Nothing in this subparagraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

“(L) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

“(i) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this paragraph to such qualified institution; and

“(ii) during any period when such qualified institution has outstanding capital instruments issued in accordance with this paragraph, the State insurance fund maintains a level of assessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.

“(M) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this paragraph, such qualified insured institution may not pay dividends to its shareholders.”.

(b) Section 5(b)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(5)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

“(B) Net worth certificates issued by an association pursuant to section 406(f) of the National Housing Act shall constitute part of the general reserves and net worth of the association, in accordance with the rules and regulations of the Board.”; and

(2) by adding at the end thereof a new subparagraph (C) as follows:

“(C) The Board shall provide in its rules and regulations for charging losses to mutual capital certificates, net worth certificates issued pursuant to section 406(f) of the National Housing Act, reserves, and other net worth accounts.”.

*Ante*, p. 1480.

(c) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended—

(1) in the fourth-to-last sentence by inserting after “items,” the following: “including net worth certificates issued pursuant to section 406(f) of this Act,”; and

(2) in the second-to-last sentence by striking out “the mutual capital certificate” and inserting in lieu thereof “mutual capital certificates, net worth certificates issued pursuant to section 406(f) of this Act,”.

(d) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out “will provide adequate reserves satisfactory to the Corporation” and all that follows through the end of the sentence immediately preceding the fourth sentence from the end of such subsection, and inserting in lieu thereof the following: “and will provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation.”.

#### INSURED BANKS

SEC. 203. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823), as amended by section 113 of this Act is amended by adding at the end thereof the following:

“(i)(1)(A) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in

this Act, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be known as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such institution, and may authorize such institution to issue net worth certificates, pursuant to this subsection.

“(B) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

“(C) In making a determination under this subsection, the corporation shall consult the State supervisor of the State in which a State chartered bank which is the subject of the eligibility determination is located, and in the case of a State member bank or a national bank, the Corporation shall consult the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, respectively.

“(D) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

“(2) For the purposes of this subsection, the term ‘qualified institution’ means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

“Qualified institution.”

“(A) has net worth equal to or less than 3 per centum of its assets;

“(B) has incurred losses during the two previous quarters;

“(C) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

“(D) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

“(E) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

“(F) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

“(3) (A) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution’s board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will

have positive net worth for a period of at least six months after such certificates are purchased.

“(B) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution’s board to make specified management personnel changes if the Corporation finds that such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

“(4) In any case where the staff of the Corporation finds for the purpose of paragraph (3) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff’s findings by, the Board.

“(5) The Corporation may initially purchase net worth certificates as follows:

“(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

“(6) In the exercise of its authority under this subsection, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in paragraph (5), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution’s operating losses incurred for the immediately preceding period.

“(7) No assistance may be provided to a qualified institution pursuant to this subsection if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with subsection (c) or (d) of this subsection.

“(8) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (A) to take part in programs under this subsec-

tion, (B) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (C) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this subsection, continuing operations, or paying interest or dividends.

"(9) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this subsection, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth for statutory and regulatory purposes.

"(11) The Corporation may not use its authority under this subsection to purchase the voting or common stock of a qualified institution. Nothing in this paragraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(12) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

"(A) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this subsection to such qualified institution; and

"(B) during any period when such qualified institution has outstanding capital instruments issued in accordance with this subsection, the State insurance fund maintains a level of assessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.

"(13) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this subsection, such qualified insured institution may not pay dividends to its shareholders."

#### REPORTS TO CONGRESS

SEC. 204. The Federal Home Loan Bank Board and the Board of Directors of the Federal Deposit Insurance Corporation shall each transmit an annual report to each House of the Congress specifying the types and amounts of net worth certificates purchased from each depository institution and the conditions imposed on each such depository institution.

12 USC 1823  
note.

#### GENERAL ACCOUNTING OFFICE AUDIT

SEC. 205. The Comptroller General of the United States shall conduct on a semiannual basis an audit of the net worth certificate programs of the Federal Deposit Insurance Corporation and the

12 USC 1823  
note

Report to  
Congress.

Federal Home Loan Bank Board. A report on each such audit shall be transmitted to each House of the Congress.

#### REPEAL

SEC. 206. Upon the expiration of three years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

*Ante*, p. 1489.  
12 USC 1729,  
1823.

*Ante*, p. 1492.  
Thrift  
Institutions  
Restructuring  
Act.

12 USC 1461  
note.

### TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

#### SHORT TITLE

SEC. 301. This title may be cited as the "Thrift Institutions Restructuring Act".

#### PART A—FORM OF CHARTER; DEMAND ACCOUNTS

##### CHARTERING AND PURPOSE

SEC. 311. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing."

##### DEMAND ACCOUNTS AND CAPITAL STOCK

SEC. 312. Paragraphs (1) and (2) of section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) are amended to read as follows:

"(1)(A) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as savings accounts), or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of deposit, or other evidence of accounts as are so authorized.

"(B) An association may also accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of an association shall, to such extent as may be provided by its charter or by regulations of the Board, be members of the association, and shall



have such voting rights and such other rights as are thereby provided.

“(C) Except as may be otherwise authorized by an association’s charter or regulation of the Board in the case of savings accounts for fixed or minimum terms of not less than fourteen days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than fourteen days, as shall be provided for by the charter of the association or the regulations of the Board.

“(D) The payment of withdrawals from accounts in the event an association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice) shall be subject to such rules and procedures as may be prescribed by the association’s charter or by regulation of the Board, but any association which, except as authorized in writing by the Board, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of subsection (d) of this section.

“(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the Board may by regulation provide.

“(F) Notwithstanding any limitation of this section, associations may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.

“(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock, as the Board may so authorize.”

#### CONVERSIONS TO FEDERAL CHARTERS

SEC. 313. Section 5(i) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(i)) is amended to read as follows:

“(i)(1) Any institution which is, or is eligible to become, a member of a Federal home loan bank may convert itself into a Federal savings and loan association or Federal savings bank under this Act (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form), but such conversion shall be subject to such rules and regulations as the Board shall prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

“(2) Subject to the rules and regulations of the Board, any Federal association may convert itself from the mutual form to the stock form of organization, or from the stock form to the mutual form, and any Federal association may change its designation from a Federal savings and loan association to a Federal savings bank, or the reverse.

“(3)(A) Any Federal association may convert itself into a savings and loan or savings bank type of institution organized pursuant to the laws of the State, district, commonwealth, or territory (hereinafter referred to in this section as the ‘State’) in which the principal office of such Federal association is located if—

“(i) the State permits the conversion of any savings and loan or savings bank type of institution of such State into a Federal association;

“(ii) such conversion of a Federal association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association;

“(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least thirty and not more than sixty days prior to the date of the meeting, to each member or stockholder of record of the Federal association at his last address as shown on the books of the Federal association and to the General Counsel of the Federal Home Loan Bank Board, Washington, District of Columbia;

“(iv) in the event of dissolution of a mutual association after conversion, the members or shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

“(v) in the event of dissolution of a stock association after conversion, the stockholders will share on an equitable basis in the assets of the association; and

“(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located.

12 USC 1726.

“(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 403 of the National Housing Act.

“(ii) The association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State.

“(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

12 USC 1730a.

“(4) Any aggrieved person may obtain review of a final action of the Board or the Federal Savings and Loan Insurance Corporation which approves, with or without conditions, or disapproves a plan of conversion from the mutual to the stock form, only by complying with the provisions of subsection (k) of section 408 of the National Housing Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of

notice of such final action in the Federal Register or upon the giving of such general notice of final action as is required by or approved under regulations of the Corporation, whichever is later.

“(5)(A) To the extent authorized by the Board—

“(i) any Federal savings bank chartered as such prior to the enactment of this paragraph may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to such enactment; and

“(ii) any Federal savings bank formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

“(B) The authority conferred by this paragraph may be utilized by any Federal association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfathered rights hereunder.”.

#### CONVERSION FROM STATE MUTUAL TO STATE STOCK

SEC. 314. Section 402(j) of the National Housing Act (12 U.S.C. 1725(j)) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) Except as provided in section 5 of the Home Owners’ Loan Act of 1933, no insured institution may convert from the mutual to the stock form except in accordance with the rules and regulations of the Corporation.”; and

(2) by striking out paragraphs (2), (3), (5), and (6) and redesignating paragraph (4) as paragraph (2).

#### PART B—INVESTMENTS

##### OVERDRAFTS

SEC. 321. Section 5(c)(1)(A) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended to read as follows:

“(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.”.

##### REAL ESTATE LOANS

SEC. 322. Section 5(c)(1)(B) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)(B)) is amended to read as follows:

“(B) REAL PROPERTY LOANS.—Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets.”.

##### TIME DEPOSITS

SEC. 323. Section 5(c)(1)(G) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)(G)) is amended to read as follows:

“(G) DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or in the savings accounts, certificates, or other accounts of any institution the

accounts of which are insured by the Federal Savings and Loan Insurance Corporation.”.

#### GOVERNMENT SECURITIES

SEC. 324. Section 5(c)(1)(H) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)(H)) is amended to read as follows:

“(H) STATE SECURITIES.—Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer.”.

#### COMMERCIAL AND OTHER LOANS

SEC. 325. Section 5(c)(1) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

“(R) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. No association may make loans to one borrower under the authority provided by this subparagraph in excess of the amount a national bank having an identical total capital and surplus could lend such borrower. The aggregate amount of loans under this paragraph shall not exceed 5 per centum of the assets of a savings and loan association (7½ per centum of the assets of a savings bank) prior to January 1, 1984, or 10 per centum of the assets of a savings and loan association or savings bank thereafter.”.

#### ELIMINATION OF DIFFERENTIAL

12 USC 461  
note.  
12 USC 3503  
note.

SEC. 326. (a) Section 102 of Public Law 94-200 is repealed.

(b)(1) Interest rate differentials for all categories of deposits or accounts between (i) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (ii) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)), shall be phased out on or before January 1, 1984.

(2) Any differential which is being phased out pursuant to a schedule established by regulations prescribed by the Depository Institutions Deregulation Committee prior to the date of enactment of this Act shall be phased out as soon as practicable, but in no event later than such schedule provides.

(3) Notwithstanding any other provision of law, no differential for any category of deposits or accounts shall be established or maintained on or after January 1, 1984.

(c) No interest rate differential may be established or maintained in the case of the deposit account authorized pursuant to section 204(c) of the Depository Institutions Deregulation Act of 1980.

(d) In the case of the elimination or reduction of any interest rate differential under subsection (b) with respect to any category of

deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act, the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

12 USC 1813.

#### MONEY MARKET DEPOSIT ACCOUNT

SEC. 327. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503) is amended by adding at the end thereof the following:

“(c)(1) The Committee shall issue a regulation authorizing a new deposit account, effective not later than 60 days after the date of enactment of this subsection. Such account shall be directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940.

15 USC 80a-51.

“(2) No limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the account authorized by this subsection.

“(3) For purposes of section 19(b) of the Federal Reserve Act, accounts established pursuant to this subsection which are not ‘transaction accounts’ as defined by the reserve requirement regulations of the Board of Governors of the Federal Reserve System as those regulations existed on August 1, 1982, shall not be subject to transaction account reserves, even though no minimum maturity is required, and even though up to three preauthorized or automatic transfers and three transfers to third parties are permitted monthly.”.

12 USC 461.

#### HOUSING AND LAND DEVELOPMENT LOANS

SEC. 328. Section 5(c)(1)(O) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(c)(1)(O)) is amended to read as follows:

“(O) HOUSING AND LAND AND URBAN DEVELOPMENT INSURED OR GUARANTEED INVESTMENTS.—Loans (i) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) as to which the association has the benefit of any guarantee under title IV of the Housing and Urban Development Act of 1968 or under part B of the National Urban Policy and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974, or of a commitment or agreement therefor.”.

12 USC 1749aa.

42 USC 3901.

42 USC 4511.

42 USC 1440, 12 USC 371, 1464.

## CONSUMER LOANS

SEC. 329. Section 5(c)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(2)(B)) is amended—

- (1) by inserting “, including loans reasonably incident to the provision of such credit,” after “household purposes”; and
- (2) by inserting before the period at the end thereof the following: “, except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association”.

## ADDITIONAL INVESTMENT AUTHORITIES

SEC. 330. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended—

- (1) in paragraph (2), by striking out “20 per centum” and inserting in lieu thereof “the following percentages”;
- (2) by redesignating paragraph (6) as paragraph (5);
- (3) by striking out paragraph (2)(A) and inserting in lieu thereof the following:

“(A) INVESTMENTS IN PERSONALTY.—Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.”;

- (4) in paragraph (3)—

(A) by striking out subparagraph (D); and

(B) by amending subparagraph (A) to read as follows:

“(A) EDUCATION LOANS.—Loans made for the payment of educational expenses.”; and

- (5) in paragraph (4)—

(A) by amending subparagraph (C) to read as follows:

“(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.”; and

(B) by amending subparagraph (D) to read as follows:

“(D) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.”.

22 USC 2181.

22 USC 2183 note.

22 USC 2181,  
2182.

15 USC 681.

## TYING ARRANGEMENTS

SEC. 331. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112 and 121, is amended by adding at the end thereof the following: *Ante*, pp. 1471, 1479.

"(q)(1) An association shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"(3) any person who is injured in his business or property by reason of anything forbidden in paragraph (1) may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or may sue therefor in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained by him, and the cost of suit, including a reasonable attorney's fee. Any such suit shall be brought within four years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Board under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection—

"(A) the term 'affiliate' of an association means any individual or company (including any corporation, partnership, trust, joint-stock company, or similar organization) which controls, is

"Affiliate."

controlled by, or is under common control with such association;  
and  
“Loan.” “(B) the term ‘loan’ includes obligations and extensions or  
advances of credit.”.

#### LIQUIDITY INVESTMENTS

SEC. 332. Section 5A(b)(1)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(B)) is amended by striking out “and commercial banks” and inserting in lieu thereof the following: “, institutions which are, or are eligible to become, members thereof, and commercial banks”.

#### REGULATORY JURISDICTION

SEC. 333. Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after “Islands” the following: “, except an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board,”.

#### BRANCHING

SEC. 334. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112, 121, and 331, is amended by adding at the end thereof the following:

“*Ante*, p. 1503. “(r)(1) No association may establish, retain, or operate a branch outside the State in which the association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the association attributable to all branches of the association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under said section 7701(a)(19).  
26 USC 7701.

“(2) The limitations of paragraph (1) shall not apply if—

“*Ante*, p. 1483. “(A) the branch results from a transaction authorized under section 408(m) of the National Housing Act;

“(B) the branch was authorized for the association prior to the enactment of the Depository Institutions Amendments of 1982;

“(C) the law of the State in which the branch is or is to be located would permit establishment of the branch were the association an institution of the savings and loan or savings bank type chartered by the State in which its home office is located; or

“(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

“(3) The Board, for good cause shown, may allow associations up to two years to comply with the requirements of this subsection.”.



## HOLDING COMPANY ACTIVITIES

SEC. 335. Section 408 of the National Housing Act (12 U.S.C. 1730a), as amended by section 123, is amended by adding at the end thereof the following:

*Ante*, p. 1483.

“(n) A savings and loan holding company, or any subsidiary thereof which is not an insured institution, whose subsidiary insured institution fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, may not commence, or continue for more than three years after such failure, any business activity other than those specified for multiple savings and loan holding companies and their subsidiaries under subsection (c)(2) of this section.”.

26 USC 7701.

## PART C—PREEMPTION OF DUE ON SALE PROHIBITIONS

## DUE-ON SALE CLAUSES

SEC. 341. (a) For the purpose of this section—

Definitions.

12 USC 1701j-3.

(1) the term “due-on-sale clause” means a contract provision which authorizes a lender, at its option, to declare due and payable sums secured by the lender’s security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender’s prior written consent;

(2) the term “lender” means a person or government agency making a real property loan or any assignee or transferee, in whole or in part, of such a person or agency;

(3) the term “real property loan” means a loan, mortgage, advance, or credit sale secured by a lien on real property, the stock allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property; and

(4) the term “residential manufactured home” means a manufactured home as defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974 which is used as a residence; and

42 USC 5402.

(5) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b)(1) Notwithstanding any provision of the constitution or laws (including the judicial decisions) of any State to the contrary, a lender may, subject to subsection (c), enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan.

(2) Except as otherwise provided in subsection (d), the exercise by the lender of its option pursuant to such a clause shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by the contract.

(3) In the exercise of its option under a due-on-sale clause, a lender is encouraged to permit an assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates, and nothing in this section shall be interpreted to prohibit any such assumption.

(c)(1) In the case of a contract involving a real property loan which was made or assumed, including a transfer of the lien property

subject to the real property loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such State has rendered a decision (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment if such decision applies State-wide) prohibiting such exercise, and ending on the date of enactment of this section, the provisions of subsection (b) shall apply only in the case of a transfer which occurs on or after the expiration of 3 years after the date of enactment of this Act, except that—

(A) a State, by a State law enacted by the State legislature prior to the close of such 3-year period, with respect to real property loans originated in the State by lenders other than national banks, Federal savings and loan associations, Federal savings banks, and Federal credit unions, may otherwise regulate such contracts, in which case subsection (b) shall apply only if such State law so provides; and

(B) the Comptroller of the Currency with respect to real property loans originated by national banks or the National Credit Union Administration Board with respect to real property loans originated by Federal credit unions may, by regulation prescribed prior to the close of such period, otherwise regulate such contracts, in which case subsection (b) shall apply only if such regulation so provides.

(2)(A) For any contract to which subsection (b) does not apply pursuant to this subsection, a lender may require any successor or transferee of the borrower to meet customary credit standards applied to loans secured by similar property, and the lender may declare the loan due and payable pursuant to the terms of the contract upon transfer to any successor or transferee of the borrower who fails to meet such customary credit standards.

(B) A lender may not exercise its option pursuant to a due-on-sale clause in the case of a transfer of a real property loan which is subject to this subsection where the transfer occurred prior to the date of enactment of this Act.

(C) This subsection does not apply to a loan which was originated by a Federal savings and loan association or Federal savings bank.

(d) A lender may not exercise its option pursuant to a due-on-sale clause upon—

(1) the creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(2) the creation of a purchase money security interest for household appliances;

(3) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(4) the granting of a leasehold interest of three years or less not containing an option to purchase;

(5) a transfer to a relative resulting from the death of a borrower;

(6) a transfer where the spouse or children of the borrower become an owner of the property;

(7) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(8) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(9) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

(e)(1) The Federal Home Loan Bank Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(2) Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due-on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.

(f) The Federal Home Loan Mortgage Corporation (hereinafter referred to as the "Corporation") shall not, prior to July 1, 1983, implement the change in its policy announced on July 2, 1982, with respect to enforcement of due-on-sale clauses in real property loans which are owned in whole or in part by the Corporation.

(g) Federal Home Loan Bank Board regulations restricting the use of a balloon payment shall not apply to a loan, mortgage, advance, or credit sale to which this section applies.

#### PART D—MISCELLANEOUS

##### ATTORNEYS FEES

SEC. 351. The last sentence of section 5(d)(8)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(A)) is amended by inserting " , which prevails," after "party".

##### SECURITY FOR ADVANCES

SEC. 352. Section 10 of the Federal Loan Bank Act (12 U.S.C. 1430) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.";

(2) by striking out the first two sentences of subsection (b); and

(3) by striking out the word "twelve" wherever it appears in subsection (c) and inserting in lieu thereof the word "twenty".

##### DELETION OF OBSOLETE REQUIREMENT

SEC. 353. Section 6(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(c)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 10 of this Act or within the meaning of regulations of the Board defining such term for the purposes of this sentence, made by such bank to such member to exceed twenty times the amounts paid

in by such member for outstanding capital stock held by such member.”.

#### COMPENSATION OF ADVISORY COMMITTEE MEMBERS

5 USC app.

SEC. 354. Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is amended by striking out the fifth sentence and inserting in lieu thereof the following: “Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members and alternates of the Council may be compensated and shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council.”.

#### WITHDRAWAL FROM MEMBERSHIP

SEC. 355. (a) Section 6(i) of the Federal Home Loan Bank Act (12 U.S.C. 1426(i)) is amended by inserting before the period at the end of the second sentence the following: “, except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties applicable to such prepayment”.

(b) Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended by adding at the end thereof the following:

“(m) Notwithstanding any other provision of this Act, an institution which withdraws from membership may acquire membership in any Federal Home Loan Bank only after the expiration of a period of five years thereafter, except where such withdrawal is a consequence of a transfer of membership on a non-interrupted basis between Banks.”.

### TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

#### PART A—GENERAL PROVISIONS

##### LENDING LIMITS

SEC. 401. (a) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended to read as follows:

“SEC. 5200. (a)(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

“(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

“(b) For the purposes of this section—

“(1) the term ‘loans and extensions of credit’ shall include all direct or indirect advances of funds to a person made on the

“Loans and extensions of credit.”

basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

“(2) the term ‘person’ shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

“Person.”

“(c) The limitations contained in subsection (a) shall be subject to the following exceptions:

“(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

“(2) The purchase of bankers’ acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

12 USC 82, 342-347, 347c, 372.

“(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

“(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

“(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

“(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

“(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

“(8)(A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25

per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2).

“(B) If the bank’s files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

“(9)(A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

“(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

“(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

“(d)(1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit.

“(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.”.

12 USC 84 note.

(b) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

#### BORROWING LIMITS

Repeal.

SEC. 402. Section 5202 of the Revised Statutes (12 U.S.C. 82) is repealed.

#### REAL ESTATE LOANS

SEC. 403. (a) Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended to read as follows:

#### “REAL ESTATE LOANS

“SEC. 24. (a) Any national banking association may make, arrange, purchase or sell loans or extensions of credit secured by liens on interests in real estate, subject to such terms, conditions,

and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation.

“(b) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of the Federal Reserve Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.”.

12 USC 82,  
342-347,  
347c, 372.

(b) The Act of September 7, 1916 (12 U.S.C. 92; 39 Stat. 753) is amended—

(1) by striking out “; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission”; and

(2) by striking out “guarantee either the principal or interest of any such loans or”.

(c) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

12 USC 371  
note.

#### BANKERS' BANKS

SEC. 404. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended—

(1) by inserting “(a)” before “If”; and

(2) by adding at the end thereof the following:

“(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.

“(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.”.

(b) The paragraph numbered “Seventh” of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by striking out “*Provided further, That,*” and all that follows through the end thereof and by inserting in lieu thereof the following: “*Provided further, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any*

bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company."

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

"(5) This section shall apply, in the same manner as it applies to any insured bank for which the appropriate Federal banking agency is the Comptroller of the Currency, to any national banking association chartered by the Comptroller of the Currency, including an uninsured association."

(d)(1) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by adding at the end thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or by a bank holding company which is owned exclusively by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees."

12 USC 1842.

(2) Section 3(e) of such Act is amended by adding at the end thereof the following: "This subsection does not apply to a bank described in the last sentence of section 2(c)."

#### NAME OR HEADQUARTERS CHANGE

SEC. 405. (a) Section 2 of the Act of May 1, 1886 (24 Stat. 18; 12 U.S.C. 30) is amended to read as follows:

"SEC. 2. (a) Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word "National".

"(b) Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits."

(b) The first proviso of section 5134 of the Revised Statutes (12 U.S.C. 22) is amended by placing a period after the word "national" and striking the remainder of that sentence.

#### VENUE PROVISIONS

SEC. 406. Section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows:

"SEC. 5198. Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the



county or city in which that association's principal place of business is located."

#### LEGAL HOLIDAYS

SEC. 407. The last sentence of section 4(b)(1) of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95(b)(1)) is amended to read as follows: "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise."

#### UNCLAIMED PROPERTY

SEC. 408. Title VII of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by adding after section 723 the following:

#### "PART C—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

##### "PURPOSE

"SEC. 731. The purpose of this part is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by— 12 USC 216.

"(1) providing final notice of the availability of unclaimed property from closed national banks and closed banks in the District of Columbia;

"(2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and

"(3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this part.

##### "DEFINITIONS

"SEC. 732. For purposes of this part—

12 USC 216a.

"(1) the term 'Comptroller' means the Comptroller of the Currency;

"(2) the term 'unclaimed property' means any articles, items, assets, other property, or the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks or closed banks in the District of Columbia, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and

"(3) the term 'claimant' means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

##### "DISPOSITION OF UNCLAIMED PROPERTY

"SEC. 733. (a)(1) Within twelve months following the date of the enactment of this part, the Comptroller shall publish formal notice

Publication in  
Federal  
Register.  
12 USC 216b.

in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred.

“(2) Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate.

“(3)(A) The Comptroller shall not disclose, by publication, inspection or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section.

“(B) Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this part. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

“(b)(1) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register.

“(2)(A) The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this part.

“(B) All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

“(c)(1) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States.

“(2) The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection.

“(3) The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

“(d) The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this part or for any delivery, sale, destruction, or other disposition of unclaimed property.

“(e)(1) A court action to determine legal ownership, entitlement, or right to possession may be filed in any State or Federal court of

competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof.

“(2) Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person.

“(3) The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

“(f)(1) The United States Claims Court shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any determination of a claim or the disposition of any unclaimed property.

“(2) The United States Claims Court may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

“(3) All claims for which the United States Claims Court has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this part.

“(4) For purposes of section 1491 of title 28, United States Code, any Claim against the Comptroller, the United States, or any officer, employee, or agent thereof shall be considered a claim against the United States.

#### “RULEMAKING AUTHORITY

“SEC. 734. The Comptroller may issue rules and regulations necessary or appropriate to carry out this part. 12 USC 216c.

#### “SEVERABILITY

“SEC. 735. If any provision of this part or the application of such provision to any person or circumstance is held invalid, the remainder of this part and the application of such provision to other persons or circumstances shall not be affected thereby.”. 12 USC 216d.

#### AMENDMENTS TO DEREGULATION ACT

SEC. 409. Sections 721 and 722 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 191 note) are amended by striking out the phrase “closed on or before January 22, 1934” each place it appears and inserting in lieu thereof “which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation”.

#### BANKING AFFILIATES

SEC. 410. (a) This section may be cited as the “Banking Affiliates Act of 1982”.

(b) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended to read as follows:

“SEC. 23A. (a) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—

“(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

Banking  
Affiliates Act of  
1982.  
12 USC 226  
note.

“(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

“(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 per centum of the capital stock and surplus of the member bank.

“(2) For the purpose of this section, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

“(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

“(4) Any covered transactions and any transactions exempt under subsection (d) between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

“(b) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘affiliate’ with respect to a member bank means—

“(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

“(B) a bank subsidiary of the member bank;

“(C) any company—

“(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

“(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

“(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

“(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940; and

“(E) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

“(2) the following shall not be considered to be an affiliate:

“(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under

paragraph (1)(E) not to exclude such subsidiary company from the definition of affiliate;

“(B) any company engaged solely in holding the premises of the member bank;

“(C) any company engaged solely in conducting a safe deposit business;

“(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

“(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

“(3)(A) a company or shareholder shall be deemed to have control over another company if—

“(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

“(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

“(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

“(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

“(4) the term ‘subsidiary’ with respect to a specified company means a company that is controlled by such specified company;

“(5) the term ‘bank’ includes a State bank, national bank, banking association, and trust company;

“(6) the term ‘company’ means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term ‘company’ includes a ‘member bank’ and a ‘bank’;

“(7) the term ‘covered transaction’ means with respect to an affiliate of a member bank—

“(A) a loan or extension of credit to the affiliate;

“(B) a purchase of or an investment in securities issued by the affiliate;

“(C) a purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

“(D) the acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

“(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

“(8) the term ‘aggregate amount of covered transactions’ means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

“(9) the term ‘securities’ means stocks, bonds, debentures, notes, or other similar obligations; and

“(10) the term ‘low-quality asset’ means an asset that falls in any one or more of the following categories:

“(A) an asset classified as ‘substandard’, ‘doubtful’, or ‘loss’ or treated as ‘other loans especially mentioned’ in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

“(B) an asset in a nonaccrual status;

“(C) an asset on which principal or interest payments are more than thirty days past due; or

“(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

“(c) COLLATERAL FOR CERTAIN TRANSACTIONS WITH AFFILIATES.—

“(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to—

“(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

“(i) obligations of the United States or its agencies;

“(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

“(iii) notes, drafts, bills of exchange or bankers’ acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

“(iv) a segregated, earmarked deposit account with the member bank;

“(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

“(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

“(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

“(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit,

guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.

“(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.

“(4) The securities issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the member bank.

“(5) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

“(d) EXEMPTIONS.—The provisions of this section, except paragraph (a)(4), shall not be applicable to—

“(1) any transaction, except for the purchase of a low-quality asset which is prohibited, with a bank—

“(A) which controls 80 per centum or more of the voting shares of the member bank;

“(B) in which the member bank controls 80 per centum or more of the voting shares; or

“(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

“(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

“(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

“(4) making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

“(A) obligations of the United States or its agencies;

“(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

“(C) a segregated, earmarked deposit account with the member bank;

“(5) purchasing securities issued by any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956;

“(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or purchasing loans on a non-recourse basis from affiliated banks; and

“(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to a repurchase agreement or with recourse.

“(e) RULEMAKING AND ADDITIONAL EXEMPTIONS.—

“(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

“(2) The Board may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of

this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.”.

12 USC 371c  
note.  
12 USC 371c.

(c) Section 23A of the Federal Reserve Act, as amended by this section, shall apply to any transaction entered into after the date of enactment of this Act, except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act, or any participation in a loan to such an affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act.

12 USC 221a.

(d) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by striking out “, within the meaning of section 2 of the Banking Act of 1933, and”.

(e) Section 22(h)(6)(C) of the Federal Reserve Act (12 U.S.C. 375b-(6)(C)) is repealed and subparagraphs (D) through (G) of such section are redesignated as subparagraphs (C) through (F), respectively.

(f) Section 106(b)(2)(E) of the Bank Holding Company Amendments of 1970 (12 U.S.C. 1972(2)(E)) is amended by striking out “the same meaning given it in section 23A of the Federal Reserve Act” and inserting in lieu thereof “the meaning prescribed by the Board pursuant to section 22(h) of the Federal Reserve Act (12 U.S.C. 375b),”.

(g) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting “as in section 2(b) of the Banking Act of 1933 (12 U.S.C. 221a(b)) and” after “shall have the same meaning”.

#### EXEMPTION FROM RESERVE REQUIREMENTS

SEC. 411. (a) Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end thereof the following:

“(11) ADDITIONAL EXEMPTIONS.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

“(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

“(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board’s responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.



“(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

Regulations.

“(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.”.

(b) Section 19(b)(4)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(4)(A)(iv)) is amended by inserting “except as provided in paragraph (11),” after “requirement is imposed,”.

(c) Section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

“Reservable liabilities.”

“(E) The term ‘reservable liabilities’ means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).”.

#### VISITORIAL POWERS

SEC. 412. Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

“SEC. 5240. (a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

“(b) Notwithstanding subsection (a), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.”.

#### REAL ESTATE HOLDING PERIOD

SEC. 413. Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended by striking out the last paragraph thereof and inserting in lieu thereof the following:

“Notwithstanding the five-year holding limitation of this section or any other provision of this title, any national banking association which on the date of enactment of this paragraph held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the

law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.”.

## PART B—FINANCIAL INSTITUTIONS REGULATORY ACT AMENDMENTS

### LOAN LIMITS

SEC. 421. (a) Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by striking out “not exceeding \$60,000” in paragraph (2), and by striking out “, not exceeding the aggregate amount of \$20,000 outstanding at any one time,” in paragraph (3).

(b) Paragraph (4) of section 22(g) of the Federal Reserve Act (12 U.S.C. 375a(4)) is amended by striking “not exceeding the aggregate amount of \$10,000 outstanding at any one time” and inserting in lieu thereof “in an amount prescribed in a regulation of the member bank’s appropriate Federal banking agency”.

### APPROVAL OF CERTAIN LOANS

SEC. 422. Paragraph (2) of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended by striking out “\$25,000” and inserting in lieu thereof “an amount prescribed in a regulation of the appropriate Federal banking agency”.

### EXCLUSION OF FOREIGN BANKS

SEC. 423. Section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)) is amended by adding at the end thereof the following: “The provisions of this subsection shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), having an insured branch in the United States, but shall apply to the insured branch.”.

### CIVIL MONEY PENALTIES

SEC. 424. (a) Section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(1)); section 5(d)(8)(B)(i) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)); section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)); and section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: “: *Provided*, That the Board may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection”.

(b) Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)); section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A)); and section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: “: *Provided*, That the Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection”.

(c) Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)); section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)); and section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)) are amended by inserting before the period at the end of the first sentence thereof the following: “: *Provided*, That the agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority”.

(d) Each of the following provisions is amended by striking the term “shall” and inserting in lieu thereof the term “may”:

(1) The second sentence of section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a));

(2) The second sentence of section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(l));

(3) The second sentence of section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1));

(4) The second sentence of section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1));

(5) The second sentence of section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A));

(6) The second sentence of section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i));

(7) The second sentence of section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A));

(8) The second sentence of section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i));

(9) The second sentence of section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A));

(10) The second sentence of section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)); and

(11) The second sentence of section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)).

(e) Sections 29(d) and 19(l)(4) of the Federal Reserve Act (12 U.S.C. 504(d) and 505(4)), 18(j)(3)(D) and 8(i)(2)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(D) and 1818(i)(2)(iv)), 407(k)(3)(D) of the National Housing Act (12 U.S.C. 1730(k)(3)(D)), 5(d)(8)(B)(iv) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(iv)), 206(j)(2)(D) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(D)), and 106(b)(2)(F)(iv) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(iv)) are amended by striking out “ten days from the date” in each section and inserting in lieu thereof “twenty days from the service”.

(f) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by striking out the word “chapter” and inserting in lieu thereof “title”.

(g) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting before “, or any regulation issued pursuant thereto,” the following: “or any of the provisions of the first section of the Act of September 28, 1962 (76 Stat. 688; 12 U.S.C. 92a)”.

#### TECHNICAL AMENDMENTS

SEC. 425. (a) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended—

(1) by striking out “persons” in the first sentence and inserting in lieu thereof “person”; and

(2) by striking out “(3)” in the last sentence and inserting in lieu thereof “(2)”.

(b) The first sentence of section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking out “25A” and inserting in lieu thereof “25(a)”.

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

“(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this paragraph, the term ‘subsidiary’ shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.”

(d) Section 205(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(2)) is amended by striking “25A” and inserting in lieu thereof “25(a)”.

12 USC 3106.

#### MANAGEMENT INTERLOCKS

SEC. 426. The Depository Institution Management Interlocks Act is amended by adding at the end thereof the following new section:

12 USC 3208.

“SEC. 210. (a) For the purpose of the exercise by the Attorney General of his enforcement functions under section 207(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act.

15 USC 12.

“(b) All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 207(6) of the title in the same manner as if such possible violations were possible violations of the Clayton Act.”

#### REMOVAL AUTHORITY

SEC. 427. (a) Section 5(d) of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (4) (C) through (E) as paragraphs (4) (D) through (F), respectively, and by inserting after paragraph (4)(B) the following new paragraph:

“(C) Whenever, in the opinion of the Board, any director or officer of an association has committed a violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.”;

(2) by striking out “(A) or (B)” each place it appears in paragraphs (4)(D) and (4)(F), as redesignated, and inserting in lieu thereof “(A), (B), or (C)”;

- (3) by striking out “(E)” in the second sentence of paragraph (4)(D), as redesignated, and inserting in lieu thereof “(F)”;
  - (4) by striking out “(C)” in paragraph (F), as redesignated, and inserting in lieu thereof “(D)”;
  - (5) by striking out, in paragraph (5)(A), “or (C)” and inserting in lieu thereof “(C), or (D)”;
  - (6) by striking out, in paragraph (12)(A), “(4)(C), (4)(D)” and inserting in lieu thereof “(4)(D), (4)(E)”.
- (b)(1) Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed a violation of the Depository Institution Management Interlocks Act, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.”;

12 USC 3201  
note.

(B) by striking out “or (2)” each place it appears in paragraphs (4) and (6), as redesignated, and inserting in lieu thereof “(2) or (3)”;

(C) by striking out “(5)” in paragraph (4), as redesignated, and inserting in lieu thereof “(6)”;

(D) by striking out “(3)” in paragraph (6), as redesignated, and inserting in lieu thereof “(4)”.

(2) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended by striking out “or (3)” in the fourth sentence and inserting in lieu thereof “(3) or (4)”.

(3) Section 407(p)(1) of the National Housing Act (12 U.S.C. 1730(p)(1)) is amended by striking out “(g)(3), (g)(4),” and inserting in lieu thereof “(g)(4), (g)(5)”.

(c)(1) Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) Whenever, in the opinion of the Board, any director, officer, or committee member of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act, the Board may serve upon such director, officer, or committee member a written notice of its intention to remove him from office.”;

(B) by striking out “or (2)” each place it appears in paragraphs (4) or (6), as redesignated, and inserting in lieu thereof “(2), or (3)”;

(C) by striking out “(5)” in paragraph (4), as redesignated, and inserting in lieu thereof “(6)”;

(D) by striking out “(3)” in paragraph (6), as redesignated, and inserting in lieu thereof “(4)”.

(2) Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by striking out “(3), (g)(4)” and inserting in lieu thereof “(4), (g)(5)”.

(d) (1) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

12 USC 3201  
note.

“(3) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of the Depository Institution Management Interlocks Act, the agency may serve upon such director or officer a written notice of its intention to remove him from office.”; and

(B) by striking out “or (2)” each place it appears in paragraph (4), as redesignated, and inserting in lieu thereof “, (2), or (3)”.

(2) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended by striking out “(e)(5) or (e)(7)” and “(e)(1), (e)(3), or (e)(7)” and inserting in lieu thereof “(e)(4)” and “(e)(1), (e)(2), or (e)(3)”, respectively.

(3) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out “or (3)” in the penultimate sentence and inserting in lieu thereof “, (3), or (4)”.

(4) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out “(e)(3), (e)(4)” and inserting in lieu thereof “(e)(4), (e)(5)”.

#### CORRESPONDENT ACCOUNTS

SEC. 428. (a) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by inserting in subparagraph (A) after the phrase “such other bank” the phrase “or to any related interest of such person”;

(2) by inserting in subparagraph (B) after the phrase “desiring to open the account” the phrase “or to any related interest of such person”;

(3) by inserting in subparagraph (C) after the phrase “such other bank” the phrase “or to any related interest of such person”; and

(4) by inserting in subparagraph (D) after the phrase “another bank” the phrase “or to any related interest of such person”.

(b) Section 106(b)(2)(G) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(G)) is amended—

(1) by striking out subparagraph (ii) and inserting in lieu thereof the following:

“(ii) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by any bank or executive officer or principal shareholder thereof concerning any extension of credit by a correspondent bank to the reporting bank’s executive officers or principal shareholders, or the related interests of such persons.”; and

(2) by striking out subparagraph (iii).

(c) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end thereof the following:

“(H) For the purpose of this paragraph—

“(i) the term ‘bank’ includes a mutual savings bank;

“(ii) the term ‘related interests of such persons’ includes any company controlled by such executive officer, director, or person, or any political or campaign committee the funds or services of which will benefit such executive officer,

Rules and  
regulations.

Definitions.

director, or person or which is controlled by such executive officer, director, or person; and

“(iii) the terms ‘control of a company’ and ‘company’ have the same meaning as under section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).”.

#### DISCLOSURE OF MATERIAL FACTS

SEC. 429. Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) is amended to read as follows:

“(k) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank to any of its executive officers or principal shareholders, or the related interests of such persons.”.

#### EFFECTIVE DATE OF REPORTING PROVISIONS

SEC. 430. The provision of law amended by section 428(b) and section 429 shall remain in effect until the regulations referred to in such amendments become effective.

12 USC 1817  
note.

#### TECHNICAL AMENDMENT

SEC. 431. Section 1006(b)(2) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(b)(2)) is amended by striking out “unaccepted” and inserting in lieu thereof “unacceptable”.

#### RIGHT TO FINANCIAL PRIVACY ACT AMENDMENTS

SEC. 432. (a) Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding section 1101(6) or any other provision of this title, the exchange of financial records or other information with respect to a financial institution among and between the five member supervisory agencies of the Federal Financial Institutions Examination Council is permitted.”.

(b) Section 1114(b)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(b)(2)) is amended by striking out “of” following the term “institution”.

#### MISCELLANEOUS AMENDMENTS

SEC. 433. (a) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by placing a period after the phrase “six-month period” in the first sentence and striking the remainder of that sentence.

(b) Section 4(a)(2) of the Bank Holding Company Act of 1956 (18 U.S.C. 1843(a)(2)) is amended by striking out “December 31, 1982” in the last paragraph and inserting in lieu thereof “December 31, 1984”.

**TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION  
ACT****CUSTODIAL ACCOUNTS**

**SEC. 501.** Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by inserting “, and such terms mean custodial accounts established for loans sold in whole or in part pursuant to section 107(13)” after “section 207 of this Act”.

**AUDIT OF NATIONAL CREDIT UNION ADMINISTRATION**

**SEC. 502.** Section 102(f) of the Federal Credit Union Act (12 U.S.C. 1752a(f)) is amended by striking out “on a calendar year basis”.

**ORGANIZATIONAL PROCESS**

**SEC. 503.** Section 103 of the Federal Credit Union Act (12 U.S.C. 1753) is amended by striking out “subscribe” and inserting in lieu thereof “each subscribe either individually or collectively”.

**PAR VALUE OF SHARES**

**SEC. 504.** Section 103(4) of the Federal Credit Union Act (12 U.S.C. 1753(4)) is amended by inserting “initial” before “par value” and by striking out “, which shall be \$5 each”.

**INVESTMENT OF FEES**

**SEC. 505.** Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended by adding at the end thereof the following new subsection:

“(e)(1) Upon request of the Board, the Secretary of the Treasury shall invest and reinvest such portions of the annual operating fees deposited under subsection (d) as the Board determines are not needed for current operations.

“(2) Such investments may be made only in interest bearing securities of the United States with maturities requested by the Board bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

“(3) All income derived from such investments and reinvestments shall be deposited to the account of the Administration described in subsection (d).”.

**TECHNICAL AMENDMENT**

**SEC. 506.** Section 107(5)(A) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

“(x) loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union’s unimpaired capital and surplus.”.



**REAL ESTATE LENDING; MAXIMUM MATURITY**

SEC. 507. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by inserting "or such other limits as shall be set by the National Credit Union Association Board" after "not exceeding thirty years."

**REAL ESTATE LENDING; MEDIAN PRICE RULE**

SEC. 508. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "the sales price of which is not more than 150 per centum of the median sales price of residential real property situated in the geographical area (as determined by the board of directors) in which the property is located,".

**REAL ESTATE LENDING; REFINANCING**

SEC. 509. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "which is made to finance the acquisition of" and inserting in lieu thereof "on" and by striking out "for" the first time it appears and inserting in lieu thereof "that is or will be".

**REAL ESTATE LENDING; SECOND MORTGAGES**

SEC. 510. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);".

**TERMS OF GUARANTEED LOANS**

SEC. 511. Section 107(5)(A)(iii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(iii)) is amended to read as follows:

"(iii) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided;".

**LOANS TO DIRECTORS OR COMMITTEE MEMBERS**

SEC. 512. Sections 107(5)(A) (iv) and (v) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A) (iv) and (v)) are amended by striking out "\$5,000" and inserting in lieu thereof "\$10,000".

**REAL ESTATE LENDING; PARTIAL PAYMENTS**

SEC. 513. Section 107(5)(A)(viii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(viii)) is amended by inserting before the semicolon

at the end thereof the following: “, except that on a first or second mortgage loan a Federal credit union may require that any partial prepayments (I) be made on the date monthly installments are due, and (II) be in the amount of that part of one or more monthly installments which would be applicable to principal”.

#### INVESTMENT IN STATE AND LOCAL GOVERNMENT OBLIGATIONS

SEC. 514. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: “(L) investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer); and”.

#### USE OF SPACE AND FACILITIES

SEC. 515. Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by adding at the end thereof the following: “For the purpose of this section, the term ‘services’ includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of space or services, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.”.

#### INVESTMENT IN SECONDARY MARKET INSTRUMENTS

SEC. 516. Section 107(7)(E) of the Federal Credit Union Act (12 U.S.C. 1757(7)(E)) is amended by inserting after the last semicolon the following: “or in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any other agency of the United States and a Federal credit union may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act;”.

12 USC 1721.

#### DEPOSITS IN OUT-OF-STATE INSURED STATE BANKS

SEC. 517. Section 107(8) of the Federal Credit Union Act (12 U.S.C. 1757(8)) is amended by inserting after “in which the Federal credit union does business,” the following: “or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,”.

#### MONEY TRANSFER SERVICES

SEC. 518. Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended—

(1) by striking out “and money orders” and inserting in lieu thereof “, money orders, and other similar money transfer instruments”; and

(2) by striking out all after “for a fee” and inserting in lieu thereof a semicolon.

#### ANNUAL MEETINGS

SEC. 519. Section 110 of the Federal Credit Union Act (12 U.S.C. 1760) is amended to read as follows:

#### “MEMBERS’ MEETINGS

“SEC. 110. The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.”.

#### TECHNICAL WORDING CHANGES IN MANAGEMENT AUTHORITY

SEC. 520. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

#### “MANAGEMENT

“SEC. 111. (a) The management of a Federal credit union shall be by a board of directors, a supervisory committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

“(b) The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers, shall be filed with the Administration within ten days after their election or appointment.

“(c) No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.”.

#### ELIMINATION OF SPECIFIC REFERENCE TO THE TITLES OF THE OFFICERS OF THE BOARD

SEC. 521. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended to read as follows:

12 USC 1761a.

“OFFICERS OF THE BOARD

“SEC. 112. At their first meeting after the annual meeting of the members, the directors shall elect from their number the board officers specified in the bylaws. Only one board officer may be compensated as an officer of the board and the bylaws shall specify such position as well as the specific duties of each of the board officers. The board shall elect from their number a financial officer who shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Board conditioned upon the faithful performance of the officer's trust.”.

CLARIFICATION OF BOARD OF DIRECTOR'S DUTIES

SEC. 522. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended to read as follows:

“BOARD OF DIRECTORS; MEETINGS; POWERS AND DUTIES; EXECUTIVE COMMITTEE; MEMBERSHIP OFFICERS; MEMBERSHIP APPLICATIONS

“SEC. 113. The board of directors shall meet at least once a month and shall have the general directions and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept. Among other things, the board of directors shall—

“(1) act upon applications for membership or appoint membership officers from among the members of the board of directors, other than the board member paid as an officer, the financial board officer, any assistant to the paid officer of the board or to the financial officer, or any loan officer;

“(2) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with regulations of the Board, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit unions;

“(3) fill vacancies on the board of directors until successors elected at the next annual meeting have qualified;

“(4) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

“(5) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

“(6) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

“(7) determine the maximum number of shares, share certificates, and share draft accounts, and the classes of shares, share certificates, and share draft accounts;

“(8) subject to any limitations of this subchapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned and provided in lines of credit;

“(9) authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid them during that dividend period;

"(10) if the bylaws so provide, appoint one or more loan officers and delegate to these officers the power to approve or disapprove loans, lines of credit, or advances from lines of credit;

"(11) establish the par value of the share;

"(12) subject to the limitations of this title and the bylaws of the credit union, provide for the hiring and compensation of officers and employees;

"(13) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(14) prescribe conditions and limitations for any committee which it appoints;

"(15) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meetings together with such other related information as it or the bylaws require;

"(16) provide for the furnishing of the written reasons for any denial of a membership application to the applicant upon the written request of the applicant;

"(17) in the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer;

"(18) declare the dividend rate to be paid on shares, share certificates, and share draft accounts pursuant to the terms and conditions of section 117;

"(19) establish and maintain a system of internal controls consistent with the regulations of the Board;

"(20) establish lending policies; and

"(21) do all other things that are necessary and proper to carry out all the purposes and powers of the Federal credit union, subject to regulations issued by the Board."

*Post*, p. 1534.

#### OPTIONAL CREDIT COMMITTEE

SEC. 523. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

#### "CREDIT COMMITTEE

"SEC. 114. (a) If the bylaws provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which shall consist of an odd number of members of the credit union, but which shall not include more than one loan officer. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 107(5) of this Act, approval of an application shall be by majority of the committee who are present at the meeting at which it is considered provided that a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

*Ante*, pp. 1528, 1529.

“(b) If the bylaws provide for a credit committee, all applications not approved by the loan officer shall be reviewed by the credit committee, and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer’s decision provided a majority of the full committee is present. If there is not a credit committee, a member shall have the right upon written request of review by the board of directors of a loan application which has been denied. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application has been approved by him in his capacity as a loan officer.”.

REQUIREMENT THAT CREDIT UNION PAY ON ALL DOLLARS AFTER  
PURCHASE OF FULL SHARE

SEC. 524. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended to read as follows:

“DIVIDENDS

“SEC. 117. At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare, pursuant to such regulations as may be issued by the Board, a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares, share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds \$5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.”.

NONPARTICIPATION

SEC. 525. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended to read as follows:

“EXPULSION AND WITHDRAWAL

“SEC. 118. (a) Subject to subsection (b) of this section, a member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after opportunity has been given him to be heard.

“(b) The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt a policy with respect to expulsion from membership based on nonparticipation by a member in the affairs of the credit union. In establishing its policy, the board should consider a member’s failure to vote in annual credit union elections or failure to purchase shares from, obtain a loan from, or lend to the Federal credit union. If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member’s current address appearing on the records of the credit union not less than thirty days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.

“(c) Withdrawal or expulsion of a member pursuant to either subsection (a) or (b) of this section shall not operate to relieve him from liability to the Federal credit union. The amount to be paid a withdrawing or expelled member by a Federal credit union shall be determined and paid in a manner specified in the bylaws.”.

NATIONAL CREDIT UNION ADMINISTRATION BOARD'S REGULATORY  
AUTHORITY

SEC. 526. Section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)) is amended by adding at the end thereof the following: “Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this Act.”.

CHARTER CONVERSION

SEC. 527. Section 125(a)(1) of the Federal Credit Union Act (12 U.S.C. 1771(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following: “Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in boldface type state that the issue will be decided by a majority of the members who vote.”.

ELIMINATION OF DISCRIMINATORY INSURANCE PREMIUM ASSESSMENT  
FOR DEPOSITS OF STATE CHARTERED CREDIT UNIONS

SEC. 528. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

“(3) the term ‘members accounts’ when applied to the premium charge for insurance of accounts shall not include amounts received from other credit unions, the accounts of which are federally insured or insured or guaranteed by a fund established under State law or regulation for this purpose, in excess of the insured account limit set forth in section 207(c)(1);”.

“Members  
accounts.”

12 USC 1787.

ELIMINATION OF PARTIAL INSURANCE PREMIUMS AND REBATES

SEC. 529. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended by striking out paragraphs (3) and (6) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

AUTHORIZATION FOR FUND TO BORROW FROM CLF

SEC. 530. Section 203 of the Federal Credit Union Act (12 U.S.C. 1783) is amended by adding at the end thereof the following:

“(f) In addition to the authority to borrow from the Secretary of the Treasury provided in subsection (d), if in the judgment of the Board, a loan to the fund is required at any time for carrying out the purposes of this title, the fund is authorized to borrow from the National Credit Union Administration Central Liquidity Facility.”.

## CENTRAL LIQUIDITY FACILITY LENDING AND INVESTMENT AUTHORITY

SEC. 531. Section 307(a) of the Federal Credit Union Act (12 U.S.C. 1795f(a)) is amended—

- (1) by striking out “and” at the end of paragraph (15);
- (2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof a semicolon; and
- (3) by adding at the end thereof the following:  
“(17) exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the purposes for which the facility is incorporated; and  
“(18) advance funds to the National Credit Union Share Insurance Fund under such terms and conditions as may be established by the Board.”.

## CENTRAL LIQUIDITY FACILITY AS AGENT OF FEDERAL RESERVE SYSTEM

SEC. 532. Title III of the Federal Credit Union Act (12 U.S.C. 1795 through 1795i) is amended by adding at the end thereof the following:

## “AGENT OF THE FEDERAL RESERVE SYSTEM

12 USC 1795j.

“SEC. 311. The facility is authorized to act upon the request of the Board of Governors of the Federal Reserve System as an agent of the Federal Reserve System in matters pertaining to credit unions under such terms and conditions as may be established by the Board of Governors of the Federal Reserve System.”.

## STUDY OF DIRECTORS' COMPENSATION

SEC. 533. The national Credit Union Administration Board shall conduct a study to determine the feasibility and desirability of permitting Federal credit unions to compensate members of their boards of directors. A report containing the results of such study shall be transmitted to the Congress not later than 6 months after the date of enactment of this Act.

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE  
ACTIVITIES OF BANK HOLDING COMPANIES

## AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 601. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: “, but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker except (A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on the date of the enactment of this



subparagraph and ending on December 31, 1982, such extension of credit is not more than \$10,000 (\$25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to \$10,000 (\$25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (i) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of \$50,000,000 or less; or (G) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971: *Provided, however,*

That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).”.

## TITLE VII—MISCELLANEOUS

### AMENDMENT TO THE TRUTH IN LENDING ACT

15 USC 1603. SEC. 701. (a) Section 104 of the Truth in Lending Act (15 U.S.C. 1601) is amended by adding at the end thereof the following:

“(6) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).”.

20 USC 1099. (b) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

15 USC 1603 note. (c) The amendment made by subsection (a) and subsection (b) shall be effective both with respect to loans made prior to and after the date of enactment of this Act.

### DEFINITION OF CREDITOR

SEC. 702. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows:

“(f) The term ‘creditor’ refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purpose of the requirements imposed under chapter 4 and sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(8), and 127(b)(10) of chapter 2 of this title, the term ‘creditor’ shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.”.

15 USC 1666  
et seq., 1637.

15 USC 1602  
note.

(b) The amendment made by subsection (a) shall take effect on the effective date of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980.

### INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

SEC. 703. (a) Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by inserting “industrial bank or similar financial institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank,” before “or other banking institution”.

(b) Section 3(l)(1) of such Act (12 U.S.C. 1813(l)(1)) is amended by inserting "thrift certificate, investment certificate, certificate of indebtedness, or other similar name," before "or a check or draft drawn against a deposit account".

(c) Section 5(a) of such Act (12 U.S.C. 1815(a)) is amended by adding at the end thereof the following: "Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State."

(d) Section 109(b)(2) of title 11, United States Code, is amended by striking out "or" before "credit union", and by inserting "; or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

#### APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978

SEC. 704. Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by inserting in the first sentence immediately after the words "on the date of enactment of this Act" the following: "or on the date of the establishment of a branch in a State an application for which was filed on or before July 26, 1978".

#### SECURITIES ACTIVITIES UNDER THE INTERNATIONAL BANKING ACT OF 1978

SEC. 705. (a) The last sentence of section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking out all after "company, and" and inserting in lieu thereof the following: "the term 'domestically-controlled affiliate covered in 1978' shall mean an affiliate organized under the laws of the United States or any State thereof if (i) no foreign bank or group of foreign banks acting in concert owns or controls, directly or indirectly, 45 per centum or more of its voting shares, and (ii) no more than 20 per centum of the number of directors as established from time to time to constitute the whole board of directors and 20 per centum of the executive officers of such affiliate are persons affiliated with any such foreign bank. For the purpose of the preceding sentence, the term 'persons affiliated with any such foreign bank' shall mean (A) any person who is or was an employee, officer, agent, or director of such foreign bank or who otherwise has or had such a relationship with such foreign bank that would lead such person to represent the interests of such foreign bank, and (B) in the case of any director of such domestically controlled affiliate covered in 1978, any person in favor of whose election as a director votes were cast by less than two-thirds of all shares voting in connection with such election other than shares owned or controlled, directly or indirectly, by any such foreign bank."

(b) The second sentence of section 8(c) of such Act is amended to read as follows: "Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which since July 26, 1978, has engaged in the business of underwrit-

ing, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, notwithstanding that such affiliate acquired after July 26, 1978, an interest in, or any or all of the assets of, a going concern, or commences to engage in any new activity or activities.”.

#### NOW ACCOUNTS FOR PUBLIC FUNDS

SEC. 706. (a) Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting before the period at the end thereof the following: “, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof”.

(b) Section 205(f)(2) of the Federal Credit Union Act (12 U.S.C. 1785(f)(2)) is amended by inserting before the period at the end thereof the following: “, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof”.

#### FEDERAL NATIONAL MORTGAGE ASSOCIATION

12 USC 1718. SEC. 707. (a) Section 303(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by inserting after the first sentence the following: “The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe.”; and

12 USC 1719. (2) by striking out “common” in the last sentence thereof.  
(b) Section 304(e) of such Act is amended by striking out the fourth sentence.

#### RESERVE REQUIREMENT PHASE-IN

SEC. 708. Section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. 461(b)(8)(D)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

“(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.”

(2) in clause (ii) by striking the words “on or”.

#### BANK SERVICE CORPORATIONS

SEC. 709. The Bank Service Corporation Act (12 U.S.C. 1861 et seq.) is amended to read as follows:

## “SHORT TITLE AND DEFINITIONS

“SECTION 1. (a) This Act may be cited as the ‘Bank Service Corporation Act’. 12 USC 1861.

“(b) For the purpose of this Act—

“(1) the term ‘appropriate Federal banking agency’ shall have the meaning provided in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));

“(2) the term ‘bank service corporation’ means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more insured banks;

“(3) the term ‘Board’ means the Board of Governors of the Federal Reserve System;

“(4) the term ‘depository institution’ means an insured bank, or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board;

“(5) the term ‘insured bank’ shall have the meaning provided in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

“(6) the term ‘invest’ includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

“(7) the term ‘principal investor’ means the insured bank that has the largest dollar amount invested in the capital stock of a bank service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation shall, prior to commencing operations, select one of the insured banks as its principal investor and shall notify the bank’s appropriate Federal banking agency of that choice within 5 business days of its selection.

## “AMOUNT OF INVESTMENT IN BANK SERVICE CORPORATION

“SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. No insured bank shall invest more than 5 per centum of its total assets in bank service corporations. 12 USC 1862.

## “PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

“SEC. 3. Without regard to the provisions of sections 4 and 5 of this Act, an insured bank may invest in a bank service corporation that performs, and a bank service corporation may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution. 12 USC 1863.

“PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR OTHER  
PERSONS

12 USC 1864.

“SEC. 4. (a) A bank service corporation may provide to any person any service authorized by this section, except that a bank service corporation shall not take deposits.

“(b) Except with the prior approval of the Board under section 5(b) of this Act in accordance with subsection (f) of this section—

“(1) a bank service corporation shall not perform the services authorized by this section in any State other than that State in which its shareholders are located; and

“(2) all insured bank shareholders of a bank service corporation shall be located in the same State.

“(c) A bank service corporation in which a State bank is a shareholder shall perform only those services that such State bank shareholder is authorized to perform under the law of the State in which such State bank operates and shall perform such services only at locations in the State in which such State bank shareholder could be authorized to perform such services.

“(d) A bank service corporation in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under this Act and shall perform such services only at locations in the State at which such national bank shareholder could be authorized to perform such services.

“(e) A bank service corporation that has both national bank and State bank shareholders shall perform only those services that may lawfully be performed by both its national bank shareholder or shareholders under this Act and its State bank shareholder or shareholders under the law of the State in which such State bank or banks operate and shall perform such services only at locations in the State at which both its State bank and national bank shareholders could be authorized to perform such services.

“(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and State branching law regulating the geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that the Board has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act.

12 USC 1843.

“PRIOR APPROVAL FOR INVESTMENTS IN BANK SERVICE CORPORATIONS

12 USC 1865.

“SEC. 5. (a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsection (c), (d), or (e) of section 4 of this Act without the prior approval of the bank’s appropriate Federal banking agency.

“(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 4(f) of this Act and no bank service corporation shall perform any activity under section 4(f) of this Act without the prior approval of the Board.

“(c) In determining whether to approve or deny any application for prior approval under this section, the Board or the appropriate Federal banking agency, as the case may be, is authorized to consid-

er the financial and managerial resources and future prospects of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proposed investment under this Act, and possible adverse effects such as undue concentration of resources, unfair or decreased competition, conflicts of interest, or unsafe or unsound banking practices.

“(d) In the event the Board or the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within ninety days of the submission of a complete application to the agency, the application shall be deemed approved.

#### “SERVICES TO NONSTOCKHOLDERS

“SEC. 6. No bank service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service corporation, except that—

12 USC 1866.

“(1) it shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

“(2) a bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

#### “REGULATION AND EXAMINATION OF BANK SERVICE CORPORATIONS

“SEC. 7. (a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency of the principal shareholder of such a bank service corporation may authorize any other Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

12 USC 1867.

“(b) A bank service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.) as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation.

12 USC 1464  
note.

“(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

“(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

“(2) the bank shall notify such agency of the existence of the service relationship within thirty days after the making of such

service contract or the performance of the service, whichever occurs first.

Regulations and orders.      “(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.”.

#### NEIGHBORHOOD REINVESTMENT CORPORATION

42 USC 8103.      SEC. 710. (a) Section 604 of the Neighborhood Reinvestment Corporation Act (Public Law 95-557) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

“(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller.”; and

(2) by inserting in section 604(g), as redesignated, after “members” a comma and the words “or their representatives as provided in subsection (f),”.

42 USC 8105.      (b) Section 606(c)(3) of such Act is amended by inserting “funds,” after “provide”.

#### MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING

Designation.      SEC. 711. The building at 20th and Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Federal Reserve Board Main Building) shall hereafter be known and designated as the “Marriner S. Eccles Federal Reserve Board Building”. Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the “Marriner S. Eccles Federal Reserve Board Building”.

#### INSURANCE STUDY

SEC. 712. (a) The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board shall each conduct a study of—

(1) the current system of deposit insurance and its impact on the structure and operations of depository institutions;

(2) the feasibility of providing depositors the option to purchase additional deposit insurance covering deposits in excess of the general limit provided by law and the capabilities of the private insurance system, either directly or through reinsurance, to provide risk coverage in excess of the general statutory limit;

(3) the feasibility of basing deposit insurance premiums on the risk posed by either the insured institution or the category or size of the depository institution rather than the present flat rate system;



(4) the impact of expanding coverage of insured deposits upon the operations of the insurance funds, including the possibility of increased or undue risk to the funds;

(5) the feasibility of revising the deposit insurance system to provide even greater protection for smaller depositors while fostering a greater degree of discipline with respect to large depositors;

(6) the adequacy of existing public disclosure regarding the condition and business practices of insured depository institutions, and providing an assessment of changes which may be needed to assure adequate public disclosure;

(7) the feasibility of consolidating the three separate insurance funds; and

(8) other related issues.

(b) A report containing the results of each of the studies carried out under subsection (a) shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

## TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

### SHORT TITLE

SEC. 801. This title may be cited as the “Alternative Mortgage Transaction Parity Act of 1982”.

Alternative  
Mortgage  
Transaction  
Parity Act of  
1982.

12 USC 3801  
note.

### FINDINGS AND PURPOSE

SEC. 802. (a) The Congress hereby finds that—

12 USC 3801.

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this title to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

### DEFINITIONS

SEC. 803. As used in this title—

12 USC 3802.

42 USC 5402.

(1) the term “alternative mortgage transaction” means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974)—

(A) in which the interest rate or finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term “housing creditor” means—

12 USC 1735f-7  
note.

(A) a depository institution, as defined in section 501(a) (2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

12 USC 1701.

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

(C) any person who regularly makes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a “housing creditor” with respect to a specific alternative mortgage transaction if, except for this title, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

#### ALTERNATIVE MORTGAGE AUTHORITY

12 USC 3803.

SEC. 804. (a) In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rulemaking authority granted to the Comptroller of the Currency with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made in accordance with regulations governing alternative mortgage

transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rulemaking authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section; and

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Home Loan Bank Board for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Home Loan Bank Board with regard to federally chartered savings and loan associations under laws other than this section.

(b) For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

(1) the transaction is in substantial compliance with the regulation; and

(2) within sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if any, to the account.

(c) An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation.

#### APPLICABILITY

SEC. 805. (a) The provisions of section 804 shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after the effective date of this title and prior to a date three years after the effective date of this title) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the preemption provided in section 804 to apply with respect to alternative mortgage transactions subject to the laws of such State, except that section 804 shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction which was entered into on or after the effective date of this title and prior to such later date (the "preemption period"); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modifi-

12 USC 3804.

cation is made during such period with the written consent of any person obligated to repay such credit.

RELATION TO OTHER LAW

12 USC 3805.  
12 USC 1735f-7  
note.

**SEC. 806.** Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this title.

EFFECTIVE DATE

12 USC 3801  
note.

**SEC. 807. (a)** This title shall be effective upon enactment.

(b) Within sixty days of the enactment of this title, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—H. R. 6267 (S. 2879):

HOUSE REPORTS: No. 97-550 (Comm. on Banking, Finance and Urban Affairs) and No. 97-899 (Comm. of Conference).

SENATE REPORTS: No. 97-536 accompanying S. 2879 (Comm. on Banking, Housing, and Urban Affairs) and No. 97-641 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 20, considered and passed House.

Sept. 24, S. 2879 considered and passed Senate; H. R. 6267, amended, passed in lieu.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982):

Oct. 15, Presidential statement.

Public Law 97-321  
97th Congress

An Act

To authorize certain construction at military installations for fiscal year 1983, and for other purposes.

Oct. 15, 1982  
[S. 2586]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Military Construction Authorization Act, 1983".

Military  
Construction  
Authorization  
Act, 1983.

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 101. The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$25,120,000.  
Fort Campbell, Kentucky, \$10,650,000.  
Fort Carson, Colorado, \$11,900,000.  
Fort Devens, Massachusetts, \$3,200,000.  
Fort Drum, New York, \$1,550,000.  
Fort Hood, Texas, \$21,750,000.  
Fort Irwin, California, \$21,590,000.  
Fort Lewis, Washington, \$21,700,000.  
Fort McPherson, Georgia, \$41,000,000.  
Fort Meade, Maryland, \$2,500,000.  
Fort Ord, California, \$8,900,000.  
Fort Polk, Louisiana, \$16,840,000.  
Camp Roberts, California, \$2,050,000.  
Fort Sam Houston, Texas, \$22,000,000.  
Fort Stewart, Georgia, \$23,000,000.  
Fort Wainwright, Alaska, \$3,020,000.  
Yakima Firing Center, Washington, \$2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, \$2,930,000.  
Aliamanu, Hawaii, \$4,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, \$26,250,000.  
Fort Bliss, Texas, \$21,300,000.  
Fort Eustis, Virginia, \$6,400,000.  
Fort Gordon, Georgia, \$9,200,000.  
Fort Knox, Kentucky, \$8,400,000.

Fort Leavenworth, Kansas, \$17,800,000.  
Fort Leonard Wood, Missouri, \$11,000,000.  
Fort McClellan, Alabama, \$7,500,000.  
Fort Rucker, Alabama, \$17,750,000.  
Fort Story, Virginia, \$13,800,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS  
COMMAND

Aberdeen Proving Ground, Maryland, \$27,500,000.  
Pine Bluff Arsenal, Arkansas, \$19,650,000.  
Red River Army Depot, Texas, \$39,000,000.  
Tooele Army Depot, Utah, \$4,150,000.  
White Sands Missile Range, New Mexico, \$5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, \$2,910,000.  
Iowa Army Ammunition Plant, Iowa, \$430,000.  
Kansas Army Ammunition Plant, Kansas, \$7,200,000.  
Longhorn Army Ammunition Plant, Texas, \$230,000.  
Louisiana Army Ammunition Plant, Louisiana, \$3,410,000.  
Milan Army Ammunition Plant, Tennessee, \$5,500,000.  
Radford Army Ammunition Plant, Virginia, \$2,400,000.  
Sunflower Army Ammunition Plant, Kansas, \$3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, \$2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, \$1,700,000.  
Fitzsimons Army Medical Center, Colorado, \$3,600,000.  
Walter Reed Army Medical Center, Washington, District of  
Columbia, \$9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, \$20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, \$57,850,000.

UNITED STATES ARMY FORCES COMMAND

Panama, \$6,800,000.  
Egypt, \$50,400,000.

UNITED STATES ARMY, EUROPE

Germany, \$240,440,000.  
Turkey, \$7,050,000.

## UNITED STATES ARMY WESTERN COMMAND

Johnston Island, \$1,050,000.

## UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, \$3,950,000.

## CONTRACTING FOR CERTAIN PROJECTS

SEC. 102. (a) The following projects authorized in section 101 may be carried out only as provided in subsection (b):

Insulation of Buildings in the amount of \$1,550,000 at Fort Drum, New York.

Division Headquarters in the amount of \$13,800,000 at Fort Hood, Texas.

Headquarters Facility in the amount of \$41,000,000 at Fort McPherson, Georgia.

Health Clinic in the amount of \$1,050,000 at Fort Benning, Georgia.

Barracks in the amount of \$9,700,000 at Fort Benning, Georgia.

Post Office in the amount of \$270,000 at Fort Benning, Georgia.

Training Facility in the amount of \$9,200,000 at Fort Gordon, Georgia.

Barracks in the amount of \$18,100,000 at Aberdeen Proving Ground, Maryland.

Barracks in the amount of \$20,000,000 at Fort Sam Houston, Texas.

Dining Facility Modernization in the amount of \$310,000 at Fort Sam Houston, Texas.

Air Conditioning in the amount of \$2,000,000 at Fort Sam Houston, Texas.

Community Center in the amount of \$4,100,000 at Aliamanu, Hawaii.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 101 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Army in previous military construction authorization Acts.

(c) Before the Secretary of the Army may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

Report to  
congressional  
committees.

## MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of

*Ante*, p. 155.

\$1,000,000 or less under the authority of this section, in the total amount of \$53,780,000.

#### FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Irwin, California, one hundred and fourteen units,  
\$8,208,000.

Fort Lewis, Washington, one hundred and fifteen units,  
\$8,962,000.

(b) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

#### IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

*Ante*, p. 159.

SEC. 105. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures to improve existing military family housing units in an amount not to exceed \$115,760,000, of which \$43,800,000 is available only for energy conservation projects.

(b) Within the amount specified in subsection (a), the Secretary of the Army may, notwithstanding the maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, \$6,080,000.

Fort Hamilton, New York, one hundred and eight units,  
\$4,800,000.

(c) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561), is amended by striking out "\$195,000" in the item relating to Fort McNair, Washington, District of Columbia, and inserting in lieu thereof "\$223,000".

#### LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

SEC. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "\$113,717,000" and inserting in lieu thereof "\$118,017,000".

#### LIMITS ON PROJECTS IN SUPPORT OF THE MASTER RESTATIONING PLAN

Agreement,  
submittal to  
Congress.

SEC. 107. (a) None of the funds appropriated pursuant to authorizations of appropriations in this Act may be obligated or expended for projects in the Federal Republic of Germany in support of the master restationing plan until (1) there is a formal agreement between the governments of the United States and the Federal Republic of Germany on the cost sharing arrangements that will apply to all projects in support of such master restationing plan, (2)



the Secretary of Defense has submitted a copy of the agreement to Congress, and (3) a period of 30 days of continuous session of Congress has expired following the date of such submittal. (b) For the purposes of subsection (a), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 30-day period.

## TITLE II—NAVY

### AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 201. The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

#### INSIDE THE UNITED STATES

##### UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, \$4,650,000.  
Marine Corps Base, Camp Lejeune, North Carolina, \$28,550,000.  
Marine Corps Base, Camp Pendleton, California, \$33,965,000.  
Marine Corps Air Station, Cherry Point, North Carolina, \$31,800,000.  
Marine Corps Air Station, El Toro, California, \$7,200,000.  
Marine Corps Air Station, Kaneohe Bay, Hawaii, \$1,450,000.  
Marine Corps Recruit Depot, Parris Island, South Carolina, \$1,550,000.  
Marine Corps Development and Education Command, Quantico, Virginia, \$23,250,000.  
Marine Corps Recruit Depot, San Diego, California, \$27,100,000.  
Marine Corps Air Station, Tustin, California, \$7,350,000.

##### OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, \$1,800,000.

##### CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$16,900,000.  
Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, \$147,750,000.  
Naval Support Activity, San Francisco, California, \$1,400,000.

##### COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, \$9,300,000.  
Naval Station, Charleston, South Carolina, \$12,250,000.  
Naval Amphibious Base, Little Creek, Virginia, \$1,850,000.  
Naval Station, Mayport, Florida, \$36,100,000.  
Naval Submarine Base, New London, Groton, Connecticut, \$5,900,000.  
Commander Oceanographic System Atlantic, Norfolk, Virginia, \$3,100,000.  
Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, \$2,085,000.

Naval Air Station, Norfolk, Virginia, \$2,150,000.

Naval Air Station, Oceana, Virginia, \$6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, \$1,900,000.

Naval Air Station, Alameda, California, \$3,650,000.

Naval Air Station, Lemoore, California, \$10,700,000.

Naval Air Station, Moffett Field, California, \$11,800,000.

Naval Air Station, North Island, California, \$31,070,000.

Naval Station, Pearl Harbor, Hawaii, \$14,400,000.

Naval Station, San Diego, California, \$27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, \$14,100,000.

Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, \$7,000,000.

Naval Air Station, Whidbey Island, Washington, \$1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, \$1,700,000.

Naval Air Station, Corpus Christi, Texas, \$2,800,000.

Naval Training Center, Great Lakes, Illinois, \$1,850,000.

Naval Air Station, Memphis, Tennessee, \$8,400,000.

Naval Education and Training Center, Newport, Rhode Island, \$1,100,000.

Fleet Training Center, Norfolk, Virginia, \$5,400,000.

Naval Training Center, Orlando, Florida, \$5,500,000.

Naval Air Station, Pensacola, Florida, \$5,400,000.

Naval Technical Training Center, Pensacola, Florida, \$4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, \$3,950,000.

Naval Air Station, Whiting Field, Florida, \$7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, \$9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, \$2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, \$1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, \$5,550,000.

Naval Weapons Center, China Lake, California, \$8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, \$10,800,000, all of which must be used for the Applied Research Center, Wallops Island, Virginia.

Navy Public Works Center, Great Lakes, Illinois, \$3,400,000.

Mare Island Naval Shipyard, Vallejo, California, \$9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, \$6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, \$160,000,000.

Navy Public Works Center, Norfolk, Virginia, \$16,030,000.

Naval Air Rework Facility, North Island, California, \$18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, \$1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, \$1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, \$7,800,000.

Naval Supply Center, San Diego, California, \$4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, \$3,250,000.

Navy Public Works Center, San Francisco, California, \$9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, \$6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, \$1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, \$1,700,000.

#### NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, \$6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, \$1,850,000.

#### OUTSIDE THE UNITED STATES

##### UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, \$2,000,000.

Marine Corps Air Station, Iwakuni, Japan, \$1,350,000.

##### COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, \$1,400,000.

Naval Station, Keflavik, Iceland, \$8,800,000.

##### COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, \$1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, \$10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, \$53,395,000.

Naval Magazine, Guam, Mariana Islands, \$24,000,000.

Naval Activities, Kenya, \$8,300,000.

Naval Activities, Somalia, \$30,000,000.

##### COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Naval Air Station, Sigonella, Italy, \$31,900,000.

##### NAVAL MATERIAL COMMAND

Navy Public Works Center, Subic Bay, Republic of the Philippines, \$2,050,000.

#### NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, \$1,750,000.

Naval Communication Area Master Station, Mediterranean, Naples, Italy, \$2,500,000.

Naval Communication Station, Thurso, Scotland, \$1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, \$9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, \$3,000,000.

CONTRACTING FOR CERTAIN PROJECTS

SEC. 202. (a) The following projects authorized in section 201 may be carried out only as provided in subsection (b):

Maintenance Hanger in the amount of \$12,600,000 at the Naval Station, Mayport, Florida.

Maintenance Facility in the amount of \$7,700,000 at the Naval Station, Mayport, Florida.

Land Acquisition in the amount of \$6,200,000 at the Naval Air Station, Oceana, Virginia.

Dining Facility in the amount of \$820,000 at the Naval Air Station, Meridian, Mississippi.

Airfield Pavement in the amount of \$7,650,000 at the Naval Air Station, Whiting Field, Florida.

Electrical Distribution System Addition in the amount of \$3,500,000 at Mare Island Naval Shipyard, Vallejo, California.

Compressed Breathing Air Distribution System in the amount of \$3,400,000 at Mare Island Naval Shipyard, Vallejo, California.

Administrative Office Modernization in the amount of \$1,000,000 at the Aviation Supply Office, Philadelphia, Pennsylvania.

Electrical Distribution in the amount of \$1,500,000 at the Naval Ship Systems Engineering Station, Philadelphia, Pennsylvania.

Engineering Management Building in the amount of \$17,500,000 at the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania.

Fire Protection System in the amount of \$1,000,000 at the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania.

Steam Plant Improvement in the amount of \$900,000 at the Portsmouth Naval Shipyard, Kittery, Maine.

Tool Shop Modernization in the amount of \$4,400,000 at the Portsmouth Naval Shipyard, Kittery, Maine.

Ammunition Wharf in the amount of \$24,000,000 at the Naval Magazine, Guam, Mariana Islands.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 201 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Navy in previous military construction authorization Acts.

(c) Before the Secretary of the Navy may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of

Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

#### MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of \$1,000,000 or less under the authority of this section, in the total amount of \$61,068,000.

*Ante*, p. 155.

#### FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, \$8,200,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, \$8,470,000.

Naval Station, Long Beach, California, two hundred units, \$16,200,000.

Naval Air Training Center, Patuxent River, Maryland, two hundred and fifty units, \$19,500,000.

Naval Station, Guantanamo Bay, Cuba, one hundred units, \$11,000,000.

(b) The Secretary of the Navy may purchase 91 acres of land at a cost not to exceed \$1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

#### IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 205. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures to improve existing military family housing units in an amount not to exceed \$30,533,000, of which \$7,574,000 is available only for energy conservation projects.

*Ante*, p. 159.

(b) Within the amount specified in subsection (a), the Secretary of the Navy may, notwithstanding the maximum amount per unit prescribed in section 2825(b) of title 10, United States Code, carry out a project to improve an existing military family housing unit at the Naval Station, Guantanamo Bay, Cuba, in the amount of \$75,000.

#### HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 206. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be acquired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

95 Stat. 603.  
42 USC 248b.

## TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION  
PROJECTS

SEC. 301. The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

## INSIDE THE UNITED STATES

## AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$5,845,000.  
Kelly Air Force Base, Texas, \$12,000,000.  
McClellan Air Force Base, California, \$9,000,000.  
Robins Air Force Base, Georgia, \$4,700,000.  
Tinker Air Force Base, Oklahoma, \$10,650,000.  
Wright-Patterson Air Force Base, Ohio, \$32,186,000.

## AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$6,600,000.  
Edwards Air Force Base, California, \$12,100,000.  
Eglin Air Force Base, Florida, \$22,600,000.  
Fort MacArthur, California, \$1,900,000.  
Laurence G. Hanscom Air Force Base, Massachusetts, \$9,100,000.  
Cape Canaveral, Florida, \$9,100,000.  
Moffett Naval Air Station, California, \$1,900,000.  
Sunnyvale Air Force Station, California, \$11,700,000.

## AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$22,260,000.  
Columbus Air Force Base, Mississippi, \$1,150,000.  
Goodfellow Air Force Base, Texas, \$15,300,000.  
Keesler Air Force Base, Mississippi, \$9,000,000.  
Lackland Air Force Base, Texas, \$6,100,000.  
Laughlin Air Force Base, Texas, \$5,770,000.  
Lowry Air Force Base, Colorado, \$13,050,000.  
Maxwell Air Force Base, Alabama, \$15,150,000.  
Randolph Air Force Base, Texas, \$3,900,000.  
Reese Air Force Base, Texas, \$3,750,000.  
Sheppard Air Force Base, Texas, \$5,500,000.  
Vance Air Force Base, Oklahoma, \$8,000,000.  
Williams Air Force Base, Arizona, \$8,700,000.

## ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, \$6,580,000.  
Elmendorf Air Force Base, Alaska, \$4,800,000.  
Galena Airport, Alaska, \$2,050,000.  
Shemya Air Force Base, Alaska, \$1,200,000.  
Various Locations, Alaska, \$43,600,000.

## MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$3,160,000.

Andrews Air Force Base, Maryland, \$13,200,000.  
Charleston Air Force Base, South Carolina, \$1,550,000.  
Dover Air Force Base, Delaware, \$2,500,000.  
Kirtland Air Force Base, New Mexico, \$3,570,000.  
Little Rock Air Force Base, Arkansas, \$3,000,000.  
McChord Air Force Base, Washington, \$3,700,000.  
McGuire Air Force Base, New Jersey, \$16,000,000.  
Norton Air Force Base, California, \$1,300,000.  
Pope Air Force Base, North Carolina, \$4,400,000.  
Scott Air Force Base, Illinois, \$4,850,000.  
Travis Air Force Base, California, \$2,400,000.

#### NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, \$3,300,000.

#### NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyenne Mountain Complex, Colorado, \$1,900,000.

#### STRATEGIC AIR COMMAND

Beale Air Force Base, California, \$2,595,000.  
Blytheville Air Force Base, Arkansas, \$8,733,000.  
Carswell Air Force Base, Texas, \$54,500,000.  
Dyess Air Force Base, Texas, \$1,650,000.  
Ellsworth Air Force Base, South Dakota, \$1,350,000.  
Francis E. Warren Air Force Base, Wyoming, \$4,150,000.  
Fairchild Air Force Base, Washington, \$3,740,000.  
Griffiss Air Force Base, New York, \$56,450,000.  
Grissom Air Force Base, Indiana, \$3,400,000.  
K. I. Sawyer Air Force Base, Michigan, \$4,450,000.  
Loring Air Force Base, Maine, \$38,420,000.  
Malmstrom Air Force Base, Montana, \$55,000,000.  
March Air Force Base, California, \$1,550,000.  
McConnell Air Force Base, Kansas, \$3,000,000.  
Offutt Air Force Base, Nebraska, \$13,255,000.  
Peterson Air Force Base, Colorado, \$67,700,000.  
Powell, Wyoming, \$1,250,000.  
Vandenberg Air Force Base, California, \$79,759,000.  
Various Locations, Continental United States, \$1,900,000.  
Whiteman Air Force Base, Missouri, \$7,800,000.  
Wurtsmith Air Force Base, Michigan, \$1,800,000.

#### TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, \$5,450,000.  
Cannon Air Force Base, New Mexico, \$1,800,000.  
Davis-Monthan Air Force Base, Arizona, \$11,950,000.  
George Air Force Base, California, \$1,400,000.  
Gila Bend Air Force Auxiliary Field, Arizona, \$1,700,000.  
Holloman Air Force Base, New Mexico, \$2,800,000.  
Homestead Air Force Base, Florida, \$1,500,000.  
Langley Air Force Base, Virginia, \$15,550,000.  
MacDill Air Force Base, Florida, \$20,700,000.  
Moody Air Force Base, Georgia, \$6,550,000.  
Mountain Home Air Force Base, Idaho, \$1,700,000.

Nellis Air Force Base, Nevada, \$19,900,000.  
Seymour-Johnson Air Force Base, North Carolina, \$3,620,000.  
Shaw Air Force Base, South Carolina, \$1,150,000.  
Tyndall Air Force Base, Florida, \$11,540,000.  
Various Locations, Maine, \$1,200,000.

#### UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$3,000,000.

#### MX CONSTRUCTION

Various Locations, Continental United States, \$40,000,000.

#### AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, \$1,100,000.  
Otis Air National Guard Base, Massachusetts, \$3,440,000.

#### AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, \$2,700,000.

#### OUTSIDE THE UNITED STATES

##### MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, \$7,270,000.

##### PACIFIC AIR FORCES

Camp Long, Korea, \$1,750,000.  
Clark Air Base, Republic of the Philippines, \$14,380,000.  
Diego Garcia Air Base, Indian Ocean, \$4,550,000.  
Kadena Air Base, Japan, \$15,950,000.  
Kunsan Air Base, Korea, \$36,490,000.  
Kwang-Ju Air Base, Korea, \$2,450,000.  
Misawa Air Base, Japan, \$6,600,000.  
Osan Air Base, Korea, \$44,000,000.  
San Miguel, Republic of the Philippines, \$1,750,000.  
Yaedake Radio Relay Station, Japan, \$1,300,000.

##### STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$2,440,000.

##### TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, \$3,600,000.  
Various Locations, Worldwide, \$21,000,000.

#### UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, \$121,700,000.  
Germany, Various Locations, \$12,038,000.  
Aviano Air Base, Italy, \$7,200,000.  
Oman, Various Locations, \$60,350,000.  
Incirlik Air Base, Turkey, \$7,290,000.



Torrejon Air Base, Spain, \$4,000,000.  
 Various Locations, United Kingdom, \$55,910,000.  
 Various Locations, \$116,630,000.

#### CONTRACTING FOR CERTAIN PROJECTS

SEC. 302. (a) The following projects authorized in section 301 may be carried out only as provided in subsection (b):

Management Facility in the amount of \$11,000,000 at Eglin Air Force Base, Florida.

Barracks in the amount of \$10,800,000 at Chanute Air Force Base, Illinois.

Barracks in the amount of \$8,000,000 at Vance Air Force Base, Oklahoma.

Maintenance Facilities in the amount of \$500,000 at Vance Air Force Base, Oklahoma.

Operations Facilities in the amount of \$900,000 at Vance Air Force Base, Oklahoma.

Barracks in the amount of \$2,100,000 at Altus Air Force Base, Oklahoma.

Barracks in the amount of \$3,600,000 at Blytheville Air Force Base, Arkansas.

Maintenance Shop in the amount of \$1,533,000 at Blytheville Air Force Base, Arkansas.

Maintenance Shop in the amount of \$7,400,000 at Griffis Air Force Base, New York.

Barracks in the amount of \$3,400,000 at Grissom Air Force Base, Indiana.

Barracks in the amount of \$5,100,000 at Malstrom Air Force Base, Montana.

Barracks in the amount of \$7,800,000 at Whiteman Air Force Base, Missouri.

Barracks in the amount of \$4,000,000 at Moody Air Force Base, Georgia.

Petroleum Facility in the amount of \$5,240,000 at Tyndall Air Force Base, Florida.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 301 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Air Force in previous military construction authorization Acts.

(c) Before the Secretary of the Air Force may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

Report to congressional committees.

#### MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of

*Ante*, p. 155

\$1,000,000 or less under the authority of this section, in the total amount of \$98,421,000.

#### FAMILY HOUSING

SEC. 304. The Secretary of the Air Force may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort MacArthur, California, two hundred units, \$18,000,000.

Powell, Wyoming, fifty units, \$3,465,000.

Incirlik Air Base, Turkey, two hundred units, \$18,000,000.

#### IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

*Ante*, p. 159

SEC. 305. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures to improve existing military family housing units in an amount not to exceed \$76,500,000, of which \$17,000,000 is available only for energy conservation projects.

(b) Within the amount specified in subsection (a), the Secretary of the Air Force may, notwithstanding the maximum amount per unit prescribed in section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Loring Air Force Base, Maine, four hundred units, \$13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, \$5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, \$4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, \$4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, \$7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, \$1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, \$934,900.

#### DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

90 Stat 1355.

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94-431), is amended by striking out "\$519,010,000" in the item relating to the Arnold Engineering Development Center, Tennessee, and inserting in lieu thereof "\$561,010,000".

(b) Section 602(3) of such Act is amended by striking out "\$759,759,000" and "\$816,409,000" and inserting in lieu thereof "\$801,759,000" and "\$858,409,000", respectively.

#### CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. The Secretary of the Air Force may carry out a project to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use by personnel engaged in logistics system support and management of the foreign military

sales program of the Air Force. In carrying out such project the Secretary may use not more than \$395,000 derived from amounts received for administrative services under the foreign military sales program.

#### **TITLE IV—DEFENSE AGENCIES**

##### **AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES**

**SEC. 401.** The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

##### **INSIDE THE UNITED STATES**

###### **DEFENSE MAPPING AGENCY**

Aerospace Center, St. Louis, Missouri, \$24,141,000.

###### **NATIONAL SECURITY AGENCY**

Fort George G. Meade, Maryland, \$75,500,000.

###### **OFFICE OF THE SECRETARY OF DEFENSE**

Classified Activity, Fort Belvoir, Virginia, \$2,100,000.  
Defense Foreign Language Institute, Monterey, California,  
\$31,000,000.

##### **OUTSIDE THE UNITED STATES**

###### **DEFENSE LOGISTICS AGENCY**

Defense Fuel Support Point, Guam, \$43,900,000.  
Defense Personnel Support Center, Kaiserslautern, Germany,  
\$5,100,000.  
Various Locations, Korea, \$29,000,000.

###### **NATIONAL SECURITY AGENCY**

Classified Locations, \$8,557,000.

##### **DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS**

Bamberg, Germany, \$3,470,000.  
Kaiserslautern Air Base, Germany, \$7,967,000.  
Karlsruhe, Germany, \$7,380,000.  
Mainz, Germany, \$2,830,000.  
Nuernberg, Germany, \$2,820,000.  
Ramstein Air Base, Germany, \$1,460,000.  
Wuerzburg, Germany, \$3,920,000.  
Zweibruecken Air Base, Germany, \$1,780,000.  
Yokota Air Base, Japan, \$5,660,000.  
RAF Woodbridge, United Kingdom, \$1,200,000.

###### **OFFICE OF THE SECRETARY OF DEFENSE**

Classified Locations, \$13,000,000.

## MINOR CONSTRUCTION

*Ante*, p. 155. SEC. 402. The Secretary of Defense may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of \$1,000,000 or less under the authority of this section, in the total amount of \$13,460,000.

## FAMILY HOUSING

SEC. 403. The Secretary of Defense may construct four family housing units for the National Security Agency at classified locations overseas in the total amount of \$560,000.

## IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

*Ante*, p. 159. SEC. 404. Subject to section 2825 of title 10, United States Code, the Secretary of Defense may make expenditures to improve existing military family housing units in an amount not to exceed \$33,000.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION  
INFRASTRUCTURE

## AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

*Ante*, p. 156. SEC. 501. The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in the amount appropriated pursuant to the authorization of appropriations in section 604(6).

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND  
RECURRING ADMINISTRATIVE PROVISIONS

## AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 601. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$1,924,544,000 as follows:

(1) For projects authorized by section 101 that are to be carried out inside the United States, \$498,428,000.

(2) For projects authorized by section 101 that are to be carried out outside the United States, \$336,299,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 103 of this Act, \$49,209,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, \$132,930,000;

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on

*Ante*, p. 160.

mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), \$905,678,000, of which not more than \$1,763,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$77,707,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for homeowners assistance under the authority of the Secretary of Defense described in section 2832 of title 10, United States Code, including acquisition of properties, \$2,000,000.

*Ante*, p. 163.

#### AUTHORIZATION OF APPROPRIATIONS, NAVY

SEC. 602. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$1,811,325,000 as follows:

(1) For projects authorized by section 201 that are to be carried out inside the United States, \$824,204,000.

(2) For projects authorized by section 201 that are to be carried out outside the United States, \$176,902,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 203 of this Act, \$55,877,000.

*Ante*, p. 155.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, \$94,903,000; and

*Ante*, p. 160.

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), \$659,439,000, of which not more than \$1,492,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$19,988,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

#### AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 603. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$2,397,132,000 as follows:

(1) For projects authorized by section 301 that are to be carried out inside the United States, \$879,564,000.

(2) For projects authorized by section 301 that are to be carried out outside the United States, \$502,013,000.

*Ante*, p. 155.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 303 of this Act, \$90,055,000.

(4) For military family housing functions—

*Ante*, p. 160.

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, \$115,965,000; and

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), \$809,535,000, of which not more than \$2,300,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$51,423,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

#### AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 604. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of \$282,714,000 as follows:

(1) For projects authorized by section 401 that are to be carried out inside the United States, \$121,458,000.

(2) For projects authorized by section 401 that are to be carried out outside the United States, \$126,310,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and under section 402 of this Act, \$12,316,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, \$593,000; and

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), \$17,279,000, of which not more than \$14,366,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(5) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, \$4,758,000.

*Ante*, p. 155.

(6) For contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the United States share of the cost of construction projects for the North Atlantic Treaty Organization Infrastructure program, \$375,000,000.

*Ante*, p. 156.

#### TITLE TOTAL LIMITATION ON COST VARIATIONS

SEC. 605. Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under each of titles I, II, III, and IV of this Act may not exceed the total amount authorized under sections 601, 602, 603, and 604, respectively, to be appropriated for the military department concerned or the Secretary of Defense, as the case may be.

*Ante*, p. 164.

#### EXPIRATION OF AUTHORIZATIONS; EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

SEC. 606. (a)(1) Except as provided in paragraph (2), all authorizations contained in titles I, II, III, and IV for military construction projects, land acquisition projects, and family housing projects, and all authorizations of appropriations for such projects contained in sections 601 through 604, expire on October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction and land acquisition projects, and authorizations of appropriations for such projects, for which appropriated funds have been obligated before October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later, for construction contracts or land acquisition.

(b) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military construction projects, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations for such projects, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for military construction projects (and for appropriations for such projects) that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for military construction projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later (and authorizations for appropriations for such projects or payments).

(c) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public

Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 101 or 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of \$2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of \$2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount of \$2,500,000 at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of \$840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of \$4,700,000 at Fort Ord, California.

(6) Electromagnetic Test Facility in the amount of \$4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of \$2,800,000 at specified locations.

(d) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 201 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1752), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Nautilus Memorial in the amount of \$1,930,000 at the Naval Submarine Base, New London, Connecticut.

(2) Unaccompanied Enlisted Personnel Housing Modernization in the amount of \$4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(3) Land Acquisition in the amount of \$330,000 at the Naval Air Station, Fallon, Nevada.

(4) Dual Purpose Passenger Terminal in the amount of \$20,000,000 at the Naval Station, Keflavik, Iceland.

(5) Facility Energy Improvements in the amount of \$1,450,000 at the Naval Air Rework Facility, Alameda, California.

(e) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 201 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 567), and extended in section 605(c) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1772), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Energy Monitoring and Control System in the amount of \$765,000 at the Naval Air Station, Jacksonville, Florida.

(2) Municipal Sewer Connection Construction in the amount of \$2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(f) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 301 of the Military Construction Authorization



Act, 1981 (Public Law 96-418; 94 Stat. 1756), shall remain in effect until October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

- (1) Various Rapid Deployment Force Facilities, in the amount of \$20,000,000 at Lajes Air Base, Portugal.
- (2) Energy Showcase Initiatives in the amount of \$1,600,000 at McClellan Air Force Base, California.
- (3) Space Transportation System Solid Rocket Disassembly Complex in the amount of \$16,700,000 at Port Hueneme Naval Installation, California.

#### DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 607. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1365), is amended by striking out the following item under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS":

"Defense Installations, Mariana Islands, \$32,000,000."

(b) Section 401 of such Act (95 Stat. 1370) is amended by inserting below "Classified Activity, Classified Location, \$2,000,000.", under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE", the following new item:

"Defense Installations, Mariana Islands, \$35,000,000."

(c) Section 702 of such Act (95 Stat. 1375) is amended—

- (1) by striking out "\$236,445,000" and "\$1,240,033,000" in clause (2) and inserting in lieu thereof "\$204,445,000" and "\$1,208,033,000", respectively; and
- (2) by striking out "\$282,815,000" in clause (4) and inserting in lieu thereof "\$317,815,000".

### TITLE VII—GUARD AND RESERVE FORCES FACILITIES

#### AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

10 USC 2231 *et seq.*

- (1) For the Department of the Army—
  - (A) for the Army National Guard of the United States, \$44,111,000; and
  - (B) for the Army Reserve, \$28,500,000.
- (2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$21,900,000.
- (3) For the Department of the Air Force—
  - (A) for the Air National Guard of the United States, \$116,500,000; and
  - (B) for the Air Force Reserve, \$29,000,000.

### TITLE VIII—GENERAL PROVISIONS

#### USE OF RENEWABLE FORMS OF ENERGY

SEC. 801. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2394, as added by section 6(a)(1) of

the Military Construction Codification Act (Public Law 97-214; 96 Stat. 171), the following new section:

10 USC 2394a.

**"§ 2394a. Procurement of energy systems powered by renewable forms of energy**

"(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department under his jurisdiction.

Solar energy  
uses, study.

"(b)(1) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be cost effective and reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2857 of this title.

*Ante*, p. 166.  
Report to  
congressional  
committees.

"(2) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives not less often than every two years a report on the studies conducted pursuant to paragraph (1). Each such report shall include any findings of the Secretary with respect to the use of solar energy and other renewable forms of energy in supplying the energy needs of the Department of Defense and any recommendations of the Secretary for changes in law that may be appropriate in light of such studies.

"(c)(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system using such a form of energy, and (B) the original investment cost of the energy system not using such a form of energy can be recovered over the expected life of the system.

"(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a system shall be made using accepted life-cycle costing procedures and shall include—

"(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system using solar energy or other renewable forms of energy, and not using such a form of energy, over the expected life of the system or during a period of 25 years, whichever is shorter;

"(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

"(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

"(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit."

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2394, as added by section 6(a)(2) of the Military Construction Codification Act (Public Law 97-214; 96 Stat. 172), the following new item:

"2394a. Procurement of energy systems using renewable forms of energy."

(3) The first report under section 2394a(b)(2) of title 10, United States Code, as added by paragraph (1), shall be submitted not later than two years after the date of the enactment of this Act. 10 USC 2394a note.

(b)(1) Section 2857 of title 10, United States Code, is amended— *Ante*, p. 166.

(A) in subsection (a)—

(i) by striking out “solar energy systems” and inserting in lieu thereof “energy systems using solar energy or other renewable forms of energy”; and

(ii) by striking out “solar energy would” and inserting in lieu thereof “such form of energy would”;

(B) in subsection (b)—

(i) by striking out “solar energy systems” in paragraphs (1) and (2) and inserting in lieu thereof “energy systems using solar energy or other renewable forms of energy”; and

(ii) by striking out “a solar energy has” in paragraph (1) and inserting in lieu thereof “such form of energy has”;

(C) in subsection (c)(1)—

(i) by striking out “a solar energy system” the first place it appears and inserting in lieu thereof “an energy system using solar energy or other renewable forms of energy”; and

(ii) by striking out “a solar energy system” the second and third places it appears and inserting in lieu thereof “such a system”;

(D) in subsection (c)(2)(A), by striking out “a solar energy system” and inserting in lieu thereof “an energy system using solar energy or other renewable forms of energy”;

(E) in subsection (c)(3), by striking out “solar energy system” and inserting in lieu thereof “energy system using solar energy or other renewable forms of energy”; and

(F) in subsection (d), by striking out “solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system” and inserting in lieu thereof “heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy”.

(2) The heading of such section is amended to read as follows:

**“§ 2857. Use of renewable forms of energy in new facilities”.**

(3) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

“2857. Use of renewable forms of energy in new facilities.”.

#### RESTRICTION ON CONSTRUCTION OF SPECIAL CONTINGENCY FACILITIES IN CERTAIN COUNTRIES

SEC. 802. (a) Subject to subsections (b) and (c), none of the funds appropriated pursuant to this Act for the construction of any contingency facility to support the national security interests of the United States in Egypt, Kenya, Oman, or Somalia, on the island of Diego Garcia, or at Lajes Field (Portugal) may be obligated or expended for the construction of such facility unless each contract entered into for the construction of such facility requires that all construction materials (other than cement, cement products, aggre-

gates, and concrete components other than steel) to be used in carrying out the contract will be materials produced, manufactured, or refined in the United States or the host nation.

(b) The provisions of subsection (a) shall not apply (1) if the application of such provisions would violate a formal agreement between the United States and the country that exercises sovereignty over the land on which a facility referred to in such subsection is to be constructed, or (2) in the case of a contract for \$5,000,000 or less.

(c) The project manager of a facility referred to in subsection (a) may authorize, in the construction of such facility, a limited use of materials not produced, manufactured, or refined in the United States if the manager determines that the use of such materials is necessary for the orderly and timely construction of such facility. However, the total amount expended for materials not produced, manufactured, or refined in the United States under a contract for the construction of a facility referred to in subsection (a) may not exceed the applicable limit specified in the following table:

If the contract amount is—		The percent of the contract amount that may be used to procure materials not produced, manufactured, or refined in the United States may not exceed—
More than—	But not more than—	
\$5,000,000 .....	\$25,000,000 .....	5
25,000,000 .....	50,000,000 .....	3
50,000,000 .....	100,000,000 .....	2
100,000,000 .....	.....	1

#### AUTHORIZATION TO USE MONEYS RECEIVED FROM GRAZING AND AGRICULTURAL LEASES

SEC. 803. Section 2667(d) of title 10, United States Code, is amended—

(1) by striking out “Money” and inserting in lieu thereof “(1) Except as provided in paragraph (2), money”; and

(2) by adding at the end thereof the following new paragraph: “(2) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary of a military department (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.”.

#### OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 804. Section 2685 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b).”.

**CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST; TECHNICAL AMENDMENTS**

SEC. 805. (a)(1) Section 2852(b) of title 10, United States Code, is amended to read as follows: *Ante*, p. 164.

“(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

“(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

“(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.”.

(2) Section 2239(b) of such title is amended to read as follows: *Ante*, p. 169.

“(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States— *10 USC 2233.*

“(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

“(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.”.

(b)(1) The heading of section 2806 of such title is amended to read as follows: *Ante*, p. 156.

**“§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure”.**

(2) The second sentence of section 2828(e)(1) of such title is amended by inserting “the” after “may be waived by”. *Ante*, p. 161.

(3) Section 2394 of such title is amended—

(A) by striking out “subsection (c)” in subsection (a) and inserting in lieu thereof “subsection (b)”; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows: *Ante*, p. 171.

“2689. Development of geothermal energy on military lands.”.

**LAND CONVEYANCE, BELL, CALIFORNIA**

SEC. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the “Secretary”) is authorized to convey to the City of

Bell, California (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of land aggregating 7.2 acres, more or less, and more particularly described on a map entitled "Outgrant to California Army National Guard, Bell, California, drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the Office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on that parcel of land.

Buildings and  
improvements.

(b)(1) In consideration for the conveyance authorized by subsection (a), the City, pursuant to an agreement to be entered into between the City and the Secretary, shall provide to the United States, to the extent of the fair market value (as determined by the Secretary) of the land conveyed by the Secretary under subsection (a), the buildings and other improvements described in paragraph (2), which buildings and improvements shall be the property of the United States.

(2) The buildings and improvements to be provided to the United States are the following:

(A) A National Guard armory.

(B) An organizational maintenance shop.

(C) Modernization of the Government-owned building located in the City designated in Department of the Army records as Building 332.

(3) The design and construction of the National Guard armory and the organizational maintenance shop and the modernization of the building described in paragraph (2)(C) shall be in conformance with plans and specifications approved by the Secretary.

Payment.

(c) The City shall pay to the United States, as further consideration for the conveyance authorized by subsection (a), an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the Secretary under subsection (a) exceeds the sum of the actual costs (as determined by the Secretary) of the buildings and improvements provided to the United States under subsection (b).

Surveys.

(d) The exact acreage and legal descriptions of any property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(e) The Secretary may require such additional terms and conditions in carrying out this section as the Secretary considers appropriate to protect the interests of the United States.

Expiration of  
Secretary's  
authority.

(f) The authority of the Secretary under this section expires at the end of the three-year period beginning on the date of the enactment of this Act.

#### MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT SAN DIEGO, CALIFORNIA

SEC. 807. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662 (76 Stat. 546), execute such documents as may be necessary in order to provide that a parcel of not more than 30 acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational purposes authorized pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition

that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

LAND CONVEYANCES, EGLIN AIR FORCE BASE, FLORIDA

SEC. 808. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") may take appropriate action to quiet title to tracts of land at or adjoining Eglin Air Force Base, Florida, in order to resolve encroachments, resulting from a reliance on inaccurate surveys, by the United States onto private property at or adjacent to such base and by private parties onto property owned by the United States.

(b) In carrying out subsection (a), the Secretary (1) may disclaim on behalf of the United States any intent by the United States to acquire by prescription any property at or in the vicinity of Eglin Air Force Base, (2) may dispose of tracts of land owned by the United States, and (3) may acquire tracts of land by purchase, by donation, or by exchange for tracts of land owned by the United States at or adjacent to Eglin Air Force Base.

(c) Any conveyance by the Secretary under this section may be made, at the discretion of the Secretary, without consideration or by exchange for tracts of land adjoining Eglin Air Force Base in possession of private parties who mistakenly believed that they had acquired title to such tracts.

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 809. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately 3.88 acres and located in the City of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance authorized by subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately 12.5 acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.", dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under

Fair market  
value.

subsection (b), the board shall pay to the United States the amount of the difference.

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board the amount of the difference, but not more than \$300,000.

Payment  
authority.

(3) The authority to make a payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

Surveys.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

#### LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 810. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately 70 acres, together with any improvements located on the land.

(b) In consideration for the conveyance authorized by subsection (a), the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the City and the board in and to four tracts of land consisting of a total of approximately 400 acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

Payment.

(c) The City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the City and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the City and the board to the United States under subsection (b).

Surveys.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.



## LAND CONVEYANCE, COOK COUNTY, ILLINOIS

SEC. 811. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of Illinois all right, title, and interest of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorized to be conveyed is more particularly described as follows: Beginning at a point four hundred feet north of the southwest corner of section 23; thence east of a line parallel to the south line of the southwest quarter of section 23, a distance of four hundred and eighty-two feet (plus or minus) to the existing chain link fence; thence north along the chain link fence eight hundred and forty feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, nine hundred and twenty feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorized by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

Fair market value.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

Report to congressional committees.

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

Expiration of Secretary's authority.

## LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 812. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"),

all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

Fair market  
value.

(c) If the sum of the fair market value (as determined by the Secretary) of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value (as determined by the Secretary) of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

Surveys.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the Corporation.

(f) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

#### LAND EXCHANGE, FORT LEWIS, WASHINGTON

SEC. 813. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately 300 acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall include the following easements on behalf of the United States:

- (1) A training easement over tract 1-US.
- (2) An access easement over tract 4-US.
- (b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—
  - (1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately 290 acres, together with the improvements on such parcels, which are acceptable to the Secretary and the value of which (as determined by the Secretary) is not less than the value of the land conveyed under subsection (a); and
  - (2) shall pay all costs for the installation of fencing necessitated by the conveyances made pursuant to subsection (a) and this subsection (as determined by the Secretary).
- (c) The Secretary may not execute the conveyance authorized by subsection (a) unless the conveyance of the property referred to in subsection (b) is made to the United States without the reservation for the benefit of the Weyerhaeuser Corporation of any easement other than two easements over roads in tract 1-W.
- (d) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Weyerhaeuser Corporation. Surveys
- (e) The Secretary may enter into an agreement with the appropriate officials of Pierce County, Washington, under which (1) the existing reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished, and (2) the conveyance to the United States under subsection (b) is made subject to a similar reversionary interest in favor of Pierce County in the lands conveyed under such subsection.
- (f) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

ACTIVITIES TO ALLOW CONSOLIDATION OF CERTAIN FUNCTIONS AT  
WASHINGTON NAVY YARD, WASHINGTON, DISTRICT OF COLUMBIA

SEC. 814. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") may spend funds appropriated to the Department of the Navy for military construction for fiscal years beginning after September 30, 1982, in an amount not to exceed \$5,000,000 for projects at the Washington Navy Yard, Washington, District of Columbia, as follows:

- (1) Alteration, conversion, and modernization of building numbered 210 at the Washington Navy Yard for use as administrative office space.
- (2) Alterations of buildings numbered 142 and 198 for use as public works facilities in support of building numbered 210.
- (3) Systems, utilities, and site improvements in support of the projects described in clauses (1) and (2).
- (b)(1) The Secretary may dispose of the property owned by the United States at 8621 Georgia Avenue, Silver Spring, Maryland, sometimes known as the Wolfe Building. The disposal of such property shall be made at not less than the fair market value of the property (as determined by the Secretary). The Secretary may use the proceeds from such disposal to reimburse the appropriations

account from which funds are spent for the projects authorized by subsection (a).

(2) The authority of the Secretary under paragraph (1) includes authority to dispose of the property described in such paragraph by sale to private parties or transfer to any Federal, State, or local government agency for cash, on credit, and upon such other terms and conditions as the Secretary determines to be in the public interest.

(c) Any proceeds from the disposal authorized by subsection (b) in excess of the amount necessary for reimbursement under subsection (a), as determined by the Secretary, shall be available to the Secretary for military construction projects authorized for the Navy for fiscal year 1984 and for later fiscal years.

**TECHNICAL AMENDMENT OF PRIOR AUTHORITY FOR LAND CONVEYANCE,  
SOUTH CHARLESTON, WEST VIRGINIA**

**SEC. 815.** Section 915 of the Military Construction Authorization Act, 1982 (Public Law 97-99, 95 Stat. 1388), is amended—

(1) in subsection (a) by inserting “or the State of West Virginia” after “South Charleston, West Virginia” the first place it appears; and

(2) in subsection (b)(1)(A) by inserting a comma and “or such other alternate sites which may be acceptable to the Secretary” after “South Charleston, West Virginia”.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—S. 2586 (H.R. 6214):**

**HOUSE REPORTS:** No. 97-525 accompanying H.R. 6214 (Comm. on Armed Services), No. 97-880 (Comm. of Conference).

**SENATE REPORT** No. 97-440 (Comm. on Armed Services).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

June 30, considered and passed Senate.

Aug. 9, 11, H.R. 6214 considered and passed House; S. 2586, amended, passed in lieu.

Sept. 28, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 18, No. 42 (1982):

Oct. 15, Presidential statement.

Public Law 97-322  
97th Congress

An Act

To authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

Oct. 15, 1982

[S. 2252]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Coast Guard,  
appropriation  
authorization for  
FY 1983 and  
1984.

Coast Guard  
Authorization  
Act of 1982.

TITLE I

SEC. 101. This title may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 102. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, \$1,800,000,000 for fiscal year 1983 and \$2,000,000,000 for fiscal year 1984, and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, \$550,000,000 for fiscal year 1983 and \$650,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, \$22,000,000 for fiscal year 1983 and \$32,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, \$8,000,000, for fiscal year 1983.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

70 Stat. 250.

SEC. 103. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 104. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

Average  
military training  
student loads.

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 105. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality."

Report to  
Congress.  
14 USC 81 note.

(b) Not later than one year after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

Contracts,  
authority.  
14 USC 81 note.

(c) Any authority to enter into contracts provided in this section shall be available only to the extent that appropriated funds are available for that purpose.

SEC. 106. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 107. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following: "This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

SEC. 108. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain

public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "Sec. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

Rules and regulations.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than \$1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

Violation, penalty.

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "Sec. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than \$1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

Violation, penalty

(c) Section 5 of the Act entitled "An Act to regulate the construction of bridges over navigable waters", enacted March 23, 1906 (33 U.S.C. 495; 34 Stat. 85), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "who shall fail" and inserting in lieu thereof "who shall willfully fail";

(3) by striking out "shall be deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act"; and

(4) by adding at the end thereof the following new subsection:

Violation,  
penalty.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than \$1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

(d) Section 510 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 533) is amended—

(1) by inserting "(a)" after "SEC. 510.";

(2) by striking out "who fails" each place it appears and inserting in lieu thereof "who willfully fails", by striking out "who refuses" and inserting in lieu thereof "who willfully refuses", and by striking out "otherwise violates" and inserting in lieu thereof "otherwise willfully violates"; and

(3) by adding at the end thereof the following new subsection:

Violation,  
penalty.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than \$1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

SEC. 109. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall



permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector and serving in a position as a marine inspector or designated in writing by the Commandant of the Coast Guard to have such access.”.

SEC. 110. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

“(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

Evaluation.

“(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

“(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.”.

SEC. 111. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a(19)) is repealed.

SEC. 112. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out “\$1,000” and inserting in lieu thereof “\$5,000”.

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b)) is amended by striking out “\$500” and inserting in lieu thereof “\$1,000”.

SEC. 113. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

Review.  
14 USC 88 note.

SEC. 114. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 115. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

**“§ 52. Vice admirals, continuity of grade**

14 USC 52.

“The continuity of an officer’s precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.”.

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

“52. Vice admirals, continuity of grade.”.

(b)(1) Section 368 of title 14, United States Code, is repealed.

Repeal.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

“368. Discharge in case of underage enlistment.”.

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out “and” at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof “; and”; and

(3) adding at the end thereof the following new subsection:

“(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.”.

SEC. 116. Section 306(f) of title 37, United States Code, is amended by striking out “The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.”.

SEC. 117. Paragraph (1) of the first section of the Act entitled “An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes” (95 Stat. 1705; Public Law 97-136) is amended by striking out “\$1,404,800,000” and inserting in lieu thereof “\$1,548,800,000”.

Publication in  
Federal  
Register.

SEC. 118. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: “The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.”.

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: “The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.”.

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out “when engaged in the duties of the Council” and inserting in lieu thereof “while attending meetings of the Council”.

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: “(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)”.

Publication in  
Federal  
Register.

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: “The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.”.

Publication in  
Federal  
Register.

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: “The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.”.

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: “The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.”.

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(c)) is amended by striking out “or while otherwise

engaged in the business of the Council” and by striking out “, including traveltime”.

(d) The Act entitled “An Act to establish a Towing Safety Advisory Committee in the Department of Transportation” (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: “The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.”.

Publication in  
Federal  
Register.

(2) Subsection (c) of the first section is amended by adding at the end thereof the following: “The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.”.

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: “Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.”.

Pay.

Travel expenses.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

Publication in  
Federal  
Register.  
14 USC 631 note.

(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

Pay.

Travel expenses.

SEC. 119. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting “or to the loss of life involved in such casualty” after “of such casualty”.

SEC. 120. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(b) by inserting after subsection (i) the following new subsection:

Hearing,  
notification to  
congressional  
committees.

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

Information,  
submittal to  
congressional  
committees.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States."

SEC. 121. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

Sailing School  
Vessels Act of  
1982.  
46 USC 446 note.

## TITLE II

SEC. 201. This title may be cited as the "Sailing School Vessels Act of 1982".

SEC. 202. The Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390 et seq.; 70 Stat. 151), is amended as follows:

(1) Subsection (a) of the first section is amended by inserting ", or any guest on board a sailing school vessel," after "purposes" in paragraph (5). Such subsection is further amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(7) any sailing school instructor or sailing school student."

46 USC 390a.

(2) Section 2(a) is amended by striking out "and each freight-carrying vessel," and inserting in lieu thereof ", each freight-carrying vessel, and each sailing school vessel". Section 2(a)(3) is amended by striking out "and the crew" and inserting in lieu thereof ", crew, sailing school students and sailing school instructions".

46 USC 390b.

(3) Section 3 is amended by striking out "and freight-carrying vessels" and inserting in lieu thereof ", freight-carrying vessels, and sailing school vessels". Section 3 is further amended by striking out "and crew," and inserting in lieu thereof ", crew, sailing school students, and sailing school instructors," and by inserting after "number of passengers" the following: ", sailing school students, and sailing school instructors".

46 USC 390c,  
390d.

(4) Sections 4(a), 4(b), and 5 are each amended by striking out "or freight-carrying vessel" each place it appears and inserting in lieu thereof ", freight-carrying vessel, or sailing school vessel".

(5) Section 5 is further amended by designating the existing language, as amended by this title, as subsection (a) and by adding at the end thereof the following new subsection:

Violation, civil  
penalty.

"(b) Whoever violates any rule or regulation of this Act shall be liable to a civil penalty of not more than \$1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secre-

tary of the department in which the Coast Guard is operating may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.”.

(6) The first section is further amended by adding at the end thereof the following:

“(f) The term ‘sailing instruction’ means teaching, research, and practical experience in the operation of vessels propelled primarily by sail and may include any subjects related thereto and to the sea, including but not limited to seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

Definitions.

“(g) The term ‘sailing school vessel’ means a vessel which the Secretary finds to be less than five hundred gross tons, carrying six or more individuals who are sailing school students or sailing school instructors, principally equipped for propulsion by sail, whether or not the vessel has any auxiliary means of propulsion, and owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code, as now or hereafter amended, or by any State or political subdivision thereof, during such times as the vessel is operated by such organization or State or political subdivision exclusively for the purposes of sailing instruction.

26 USC 501.

“(h) The term ‘sailing school instructor’ means any person who is aboard a sailing school vessel for the purpose of furnishing sailing instruction. Such term does not include any operator or member of the crew of such a vessel who is among those required to be aboard the vessel to meet requirement establishing under section 3 of this Act.

“(i) The term ‘sailing school student’ means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.”.

SEC. 203. Section 13(b) of the Act of March 4, 1915 (46 U.S.C. 672(b)), is amended by adding at the end thereof the following new paragraph:

“(4) ‘Able seaman-sail’ qualified for service on any waters shall have at least six months’ service on deck on sailing school ships, oceanographic research vessels powered primarily by sail, or equivalent sailing vessels operating on the oceans or navigable waters of the United States including the Great Lakes.”.

“Able seaman-sail.”

SEC. 204. Sailing school students and sailing school instructors shall not be considered to be seamen under the provisions of titles 52 and 53 of the Revised Statutes of the United States and any Act amendatory thereof or supplementary thereto, or for the purposes of the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

46 USC 446.

SEC. 205. Each owner or charterer of a sailing school vessel shall maintain evidence of his or her financial responsibility to meet any liability incurred for death or injury to sailing school students or sailing school instructors on voyages aboard the vessel, in an amount not less than \$50,000 for each student or instructor. Such

46 USC 446a.

financial responsibility may be evidenced by policies of insurance or other adequate financial resources.

46 USC 446b

SEC. 206. For the purposes of section 3 of the Act of February 17, 1898 (46 U.S.C. 291), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), a sailing school vessel shall not be deemed to be a merchant vessel or a vessel engaged in trade or commerce.

Definitions  
46 USC 446c.

SEC. 207. For purposes of sections 203, 204, 205, 206, and 208 of this title, the terms "sailing school students", "sailing school instructor", and "sailing school vessel" have the meaning given such terms in the first section of the Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390) as amended by this title.

Rules and  
regulations.  
46 USC 446d.

SEC. 208. (a) The Secretary of the department in which the Coast Guard is operating shall, after consultation with representatives of the private sector having experience in the operation of vessels likely to be certified as sailing school vessels, but not later than eighteen months after the date of enactment of this title, prescribe rules and regulations to carry out this title including the amendments made by this title. Such rules and regulations shall reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels, and shall include requirements for notice to sailing school students and sailing school instructors regarding the specialized nature of sailing school vessels and applicable safety regulations. Any manning requirement imposed with respect to sailing school vessels shall take into account the participation of sailing school students and sailing school instructors in the operation of such vessels.

Effective date.  
46 USC 446 note.

(b) Sections 202, 203, 204, 205, 206, and 207 of this title and the amendments made by such sections shall take effect eighteen months after the date of enactment of this Act or on the date upon which the rules and regulations referred to in subsection (a) take effect, whichever is earlier.

Approved October 15, 1982.

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#### LEGISLATIVE HISTORY—S. 2252 (H.R. 5617):

HOUSE REPORTS: No. 97-563, Pt. I (Comm. on Merchant Marine and Fisheries) and Pt. II (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-361 (Comm. on Commerce, Science, and Transportation).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

May 5, considered and passed Senate.

July 15, H.R. 5617 considered and passed House; S. 2252, amended, passed in lieu.

Sept. 27, House concurred in House amendments with an amendment.

Sept. 29, House concurred in Senate amendment.

Public Law 97-323  
97th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Oct 15, 1982

[H R. 6968]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military  
Construction  
Appropriation  
Act, 1983

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, \$929,720,000, to remain available until September 30, 1987: *Provided*, That of this amount, not to exceed \$145,240,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *And provided further*, That \$8,000,000 of the funds available for planning and design shall be available only for the design of the renovation of and addition to Brooke Army Medical Center at Fort Sam Houston, Texas.

Notification to  
congressional  
committees

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,080,750,000, to remain available until September 30, 1987: *Provided*, That of this amount, not to exceed \$111,792,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Notification to  
congressional  
committees.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,551,414,000, to remain available until September 30, 1987: *Pro-*

Notification to  
congressional  
committees.

*vided*, That of this amount, not to exceed \$120,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

#### MILITARY CONSTRUCTION, DEFENSE AGENCIES

##### (INCLUDING TRANSFER OF FUNDS)

Notification to  
congressional  
committees.

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$339,770,000, to remain available until September 30, 1987, and, in addition, not to exceed \$20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense, to be merged with and to be available for the same purposes, and for the same time period, as this appropriation: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$14,500,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

#### NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

*Ante*, p. 156.

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, \$325,000,000, to remain available until expended.

#### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

10 USC 2231 *et seq.*

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contribution therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, \$54,958,000, to remain available until September 30, 1987.

#### MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chap-



ter 133 of title 10, United States Code, as amended, and military construction authorization Acts, \$127,900,000, to remain available until September 30, 1987. 10 USC 2231 *et seq.*

#### MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, \$41,800,000, to remain available until September 30, 1987.

#### MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, \$25,200,000, to remain available until September 30, 1987.

#### MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, \$35,600,000, to remain available until September 30, 1987.

#### FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$127,791,000; for Operation and maintenance, \$834,245,000; for debt payment, \$43,184,000; in all, \$1,005,220,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

#### FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$98,991,000; for Operation and maintenance, \$604,516,000; for debt payment, \$32,793,000; in all, \$736,300,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

#### FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt

payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$110,904,000; for Operation and maintenance, \$722,153,000; for debt payment, \$64,114,000; in all, \$897,171,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

#### FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$513,000; for Operation and maintenance, \$13,800,000; in all, \$14,313,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

#### HOMEOWNERS ASSISTANCE FUND, DEFENSE

42 USC 3374.

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), \$2,000,000.

#### GENERAL PROVISIONS

Prior appropriations.

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Ninety-seventh Congress.

Contracts

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Service facilities.

SEC. 103. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Motor vehicles.  
31 USC 638f.

SEC. 104. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Access roads,  
construction.  
31 USC 700b.

SEC. 105. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 106. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

New bases.

SEC. 107. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

Land purchases or easements.

SEC. 108. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

Family housing

SEC. 109. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

Notification to Committees on Appropriations.

SEC. 110. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.

Base realignment or closure activities

SEC. 111. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

42 USC 4321 note  
Steel procurement

SEC. 112. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

Indian Ocean dredging.

SEC. 113. No part of the funds appropriated in this Act may be obligated for design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

MX missile facilities, design

SEC. 114. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Foreign real property taxes.

SEC. 115. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Illegal alien, employment.

SEC. 116. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Consulting service contracts

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the

construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such projects, plus any amount by which the cost of such project is increased pursuant to law.

Transfer of  
funds.  
42 USC 1594a-1.

SEC. 118. Unexpended balances in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554 shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the purposes for which originally appropriated, and shall remain available for obligation for the same period as such funds were available before such transfer is made, except for funds available for debt payment, which shall remain available until September 30, 1983.

Fuel-fired  
electric power  
generating  
plant,  
construction.  
*Ante*, p. 171.  
*Ante*, p. 1553.

SEC. 119. Pursuant to 10 U.S.C. 2394 and section 201 of the Military Construction Authorization Act, 1983, the Navy is authorized (a) to construct and operate a refuse derived fuel-fired electric power generating plant and (b) to contract for fuel supplies at the Norfolk Naval Shipyard (NNSY). Any electric power and fuel supplies produced in excess of the needs of the Navy may be sold: *Provided, however*, That any proceeds from such sales, adjusted for costs related thereto, shall be credited to the Treasury as miscellaneous receipts.

Fort DeRussy,  
Honolulu,  
Hawaii.

SEC. 120. None of the funds appropriated in this Act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

Short title.

This Act may be cited as the "Military Construction Appropriation Act, 1983".

Approved October 15, 1982.

#### LEGISLATIVE HISTORY—H.R. 6968:

HOUSE REPORTS: No. 97-726 (Comm. on Appropriations) and No. 97-913 (Comm. of Conference).

SENATE REPORT No. 97-572 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 19, considered and passed House.

Sept. 27, considered and passed Senate, amended.

Oct. 1, House agreed to conference report; receded from certain amendments and concurred in others with amendments; Senate agreed to conference report; concurred in House amendments.

Public Law 97-324  
97th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

Oct. 15, 1982

[H.R. 5890]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National  
Aeronautics and  
Space  
Administration  
Authorization  
Act, 1983.

TITLE I

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1982:

(a) For "Research and development", for the following programs:

- (1) Space Shuttle, \$1,798,000,000;
- (2) Space flight operations, \$1,699,000,000;
- (3) Expendable launch vehicles, \$42,800,000;
- (4) Physics and astronomy, \$473,700,000;
- (5) Planetary exploration, \$177,600,000;
- (6) Life sciences, \$55,700,000;
- (7) Space applications, \$336,300,000;
- (8) Technology utilization, \$9,000,000;
- (9) Aeronautical research and technology, \$280,000,000;
- (10) Space research and technology, \$128,000,000; and
- (11) Tracking and data acquisition, \$503,900,000.

(b) For "Construction of facilities", including land acquisition, as follows:

Facilities  
construction.

- (1) Construction of data analysis facility, Hugh L. Dryden Flight Research Facility, \$4,500,000;
- (2) Rehabilitation and modification of utility systems, Goddard Space Flight Center, \$2,840,000;
- (3) Modifications to the 4- by 7-meter low speed tunnel, Langley Research Center, \$7,200,000;
- (4) Modifications to upgrade the transonic dynamics tunnel, Langley Research Center, \$9,000,000;
- (5) Modification of rocket engine test facility for altitude testing, Lewis Research Center, \$995,000;
- (6) Modification to 450 PSI air system in engine research building, Lewis Research Center, \$2,920,000;
- (7) Rehabilitation of airfield, Wallops Flight Center, \$2,150,000;
- (8) Space Shuttle facilities at various locations as follows:
  - (A) Modifications to solid rocket booster refurbishment and subassembly facilities, John F. Kennedy Space Center, \$1,700,000;
  - (B) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, \$17,845,000;
  - (C) Minor Shuttle-unique projects, various locations, \$1,860,000;

(9) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, \$1,740,000;

(10) Repair of facilities at various locations, not in excess of \$500,000 per project, \$15,000,000;

(11) Rehabilitation and modification of facilities at various locations, not in excess of \$500,000 per project, \$20,000,000;

(12) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of \$250,000 per project, \$4,000,000; and

(13) Facility planning and design not otherwise provided for, \$8,250,000.

Research and  
program  
management.

(c) For "Research and program management", \$1,168,900,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and  
development.

(d) Notwithstanding the provisions of subsection (g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds \$250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Scientific  
consultations or  
extraordinary  
expenses.

(f) Appropriations made pursuant to subsection (c) may be used, but not to exceed \$25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections (a) and (c), not in excess of \$75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to

existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a), not in excess of \$250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (12), inclusive, of section 101(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

Report to congressional committees.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with \$10,000,000 of the funds appropriated pursuant to section 101(b) hereof (other than funds appropriated pursuant to paragraph (13) of such section) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in section 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the thirty-day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than 5 days to a day certain shall be excluded, but in no event shall the total period extend beyond 45 days.

Transfer of funds

Report to congressional committees.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notification to congressional committees.

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the thirty-day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than five days to a day certain shall be excluded, but in no event shall the total period extend beyond forty-five days.

Federal research funds, geographical distribution. 42 USC 2459 note.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

42 USC 2464.

SEC. 106. (a) Notwithstanding any other provision of law, or any interagency agreement, the Administrator of the National Aeronautics and Space Administration shall charge such prices as necessary to recover the fair value of placing Department of Defense payloads into orbit by means of the Space Shuttle.

42 USC 2464 note.

(b) This section shall apply to any Department of Defense payloads placed into orbit by means of the Space Shuttle on or after October 1, 1983.

15 USC 2201 note.

SEC. 107. (a) The Director of the Federal Emergency Management Agency shall ensure that all obligations and responsibilities imposed by the Federal Fire Prevention and Control Act of 1974 are performed during fiscal year 1983, including activities of the United States Fire Administration and the United States Fire Academy.

5 USC app.

(b) The Director shall reserve such funds as are appropriated to carry out the functions of the Federal Emergency Management Agency as designated in Reorganization Plan Numbered 3 of 1978 to conduct the operations of the United States Fire Administration, the United States Fire Academy, and such other functions and responsibilities as are vested in the Director pursuant to the Federal Fire Prevention and Control Act of 1974.

Short title.

SEC. 108. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1983".



## TITLE II

**SEC. 201. (a)** The Secretary of Commerce is hereby authorized to plan and provide for the management and operation of a civil land remote sensing satellite system, including the LANDSAT D and D' satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the ownership and operation of civil operational land remote sensing satellite systems by the private sector when in the national interest. The provisions of this subsection expire September 30, 1984.

Civil land  
remote sensing  
satellite systems.  
15 USC 1517  
note

Expiration.

**(b)(1)** As part of his planning for the transfer of the ownership and operation of civil operational land remote sensing satellite systems to the private sector the Secretary shall—

**(A)** Conduct a study to define the current, projected, and potential needs of the government for land remote sensing data.

Study.

**(B)** Determine and describe the equipment, software, and data inventory that could be transferred to the private sector.

**(C)** Compare various feasible financial and organizational approaches for such a transfer. Criteria for the comparison should include considerations such as: maintenance of data continuity; maintenance of United States leadership; national security; international obligations; potential for market growth; marketing ability; sunk and projected cost to the Government; independence of subsidy or financial guarantee from the Government; potential of financial return to the Government; and price of data to users. The following institutional alternatives should be compared: (i) wholly private ownership and operation of the system by an entity competitively selected; (ii) phased-in Government/private ownership and operation; (iii) a legislatively chartered privately owned corporation; and (iv) continued ownership and operation by the Federal Government.

The Secretary shall complete these studies and report on them to the Congress by February 1, 1983.

Report to  
Congress

**(2)** In addition to the studies and comparisons called for in section 201(b)(1) the Secretary shall fund at least two parallel studies outside the government independently to assess the alternatives called for in section 201(b)(1)(C). These studies should be submitted to the Congress by April 1, 1983.

Parallel studies,  
submittal to  
Congress.

**(c)** There is authorized to be appropriated \$14,955,000 for the fiscal year 1983, for the purpose of carrying out the provisions of this title.

**(d)** No moneys authorized by this title shall be used to transfer to the private sector the ownership or management of any civil land remote sensing space satellite system and associated ground system equipment unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives, the President of the Senate, the House Committee on Science and Technol-

ogy, and the Senate Committee on Commerce, Science, and Transportation, of a message from the Secretary of Commerce or his designee containing a full and complete plan for the action proposed to be taken together with the reasons therefor and expected funding impacts, or (B) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 5890 (S. 2604):**

**HOUSE REPORTS:** No. 97-502 (Comm. on Science and Technology) and No. 97-897 (Comm. of Conference).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

May 13, considered and passed House.

June 9, S. 2604 considered and passed Senate; proceedings vitiated and H.R. 5890, amended, passed in lieu.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

Public Law 97-325  
97th Congress

An Act

To authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes.

Oct. 15, 1982  
[H.R. 6164]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".*

International  
Carriage  
of Perishable  
Foodstuffs  
Act.  
7 USC 4401 note.  
7 USC 4401.

FINDINGS AND PURPOSE

SEC. 2. Congress hereby finds and declares that—

(1) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development by that Commission of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) the agreement requires that equipment involved in the international carriage of perishable foodstuffs be inspected, tested, and certified to specified standards;

(3) this Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(4) this Act will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage.

DEFINITIONS

SEC. 3. As used in this Act—

7 USC 4402.

(1) The term "agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, and the annexes and the appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(2) The term "contracting party" means any country that is eligible under article 9 of the agreement and that has complied with the terms of such article.

(3) The term "equipment" means the special transport equipment that complies with the definitions and standards set forth in annex 1 to the agreement, including, but not limited to, railway cars, trucks, trailers, semitrailers, and intermodal freight containers that are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(4) The term "perishable foodstuffs" means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 to the agreement.

(5) The term "international carriage" means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by—

(A) rail,

(B) road,

(C) any combination of rail and road, or

(D) any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in clauses (A), (B), and (C) of this paragraph, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in clause (D) of this paragraph, each land journey shall be considered separately.

(6) The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

#### DUTIES OF THE SECRETARY OF AGRICULTURE

7 USC 4403.

**SEC. 4.** The Secretary of Agriculture of the United States shall be the competent authority to implement the agreement. To ensure compliance with the standards specified in the agreement, the Secretary of Agriculture may—

(1) designate appropriate organizations to inspect or test equipment, or both;

(2) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(3) prescribe such regulations as may be necessary to implement the agreement and administer this Act, including, but not limited to, provision for suspending or denying the designation of any organization to inspect or test equipment and for denying the issuance of certificates of compliance as may be necessary to ensure compliance with the provisions of this Act and the regulations issued thereunder;

Inspections.

(4) make periodic onsite inspections of facilities and procedures used by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

Reports.

(5) require submission of reports by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

Records

(6) require maintenance of records by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(7) inform contracting parties, through the Secretary of State of the United States, of all general measures taken in connection with the implementation of the agreement; and

(8) take such other action as may be considered appropriate to implement the agreement and administer this Act.

#### DUTIES OF THE SECRETARY OF STATE

SEC. 5. The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

7 USC 4404.

#### FEES FOR TESTING, INSPECTION OR CERTIFICATION

SEC. 6. (a) Any organization designated by the Secretary of Agriculture to test or inspect equipment may establish reasonable fees to cover the costs of such testing or inspection. Such fees shall be payable directly to the organization by those seeking inspection or testing.

7 USC 4405.

(b) The Secretary of Agriculture may, effective October 1, 1982, fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4(2) of this Act. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary of Agriculture incident to the issuance of certificates of compliance under this Act.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 7. There are authorized to be appropriated to the Secretary of Agriculture for the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, such sums as are necessary to carry out the provisions of this Act, but not to exceed \$100,000 in any fiscal year.

7 USC 4406.

#### ASSISTANT SECRETARY OF AGRICULTURE

SEC. 8. (a) There shall be in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, an additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of Agriculture shall prescribe and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

7 USC 2212c.

(b) Section 5315 of title 5 of the United States Code is amended by striking out "(6)" following "Assistant Secretaries of Agriculture" and inserting in lieu thereof "(7)".

(c) Section 5316 of title 5 of the United States Code is amended by striking out "Assistant Secretary of Agriculture for Administration."

Repeal.

5 USC app;

7 USC 2201 note.

Effective date.

7 USC 2212c

note.

**(d) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is repealed.**

**(e) This section shall take effect on the date of enactment of this Act except that subsections (c) and (d) of this section shall take effect upon the appointment of a person to fill the successor position created by subsection (a) of this section.**

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 6164 (S. 2351):**

HOUSE REPORT No. 97-516 (Comm. on Agriculture).

SENATE REPORT No. 97-406 accompanying S. 2351 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 18, considered and passed House.

Sept. 29, considered and passed Senate, amended.

Sept. 30, House concurred in Senate amendments.

Public Law 97-326  
97th Congress

An Act

To require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes.

Oct 15, 1982  
[S 2386]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Consolidated Federal Funds Report Act of 1982."

SEC. 2. As used in this Act, the term—

(1) "Director" means the Director of the Office of Management and Budget;

(2) "State" means any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(3) "municipality" means any subcounty unit of local government that received Federal assistance under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221) for the appropriate fiscal year.

SEC. 3. (a) For fiscal years 1983, 1984, and 1985, not later than one hundred and eighty days after the end of each fiscal year, the Director shall prepare a Consolidated Federal Funds Report presenting the total amount of Federal funds that were obligated for expenditure in or expended in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds during the preceding fiscal year. The report shall be in the form described in subsection (b) and shall be based on the data referred to in subsection (c).

(b) The Director shall include in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State, county or parish, congressional district, and municipality of the United States in appropriate categories in the fiscal year preceding the fiscal year in which the report is made.

(c) The report required by subsection (a) shall be based on the data included in—

(1) the Federal assistance awards data system established as a result of the study referred to in the first sentence of section 8;

(2) the Federal procurement data system referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5));

(3) the appropriate data file of the Office of Personnel Management; and

Consolidated  
Federal Funds  
Report Act of  
1982.  
31 USC 6102  
note  
Definitions.  
31 USC 6102  
note

Report  
31 USC 6102  
note

Contents

Report.  
31 USC 6102  
note.

Contents.

Report, copies  
and computer  
tapes.  
31 USC 6102  
note.

Free copies to  
congressional  
committees and  
depository  
libraries.

Waiver.

(4) the records of the Office of the Secretary of Defense.

(d) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, cooperative agreements, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, and disability compensation.

SEC. 4. (a) The Director shall prepare a report setting forth the total amount of Federal funds that were obligated for expenditure in or expended in each State in appropriate general categories of Federal funds during each of the fiscal years 1981 and 1982. The report shall be in the form described in subsection (b).

(b) The Director shall include in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State in appropriate general categories in the fiscal year preceding the fiscal year in which the report is made.

(c) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, disability compensation, and other large programs or categories where data are available such as the National Aeronautics and Space Administration and the Army Corps of Engineers.

(d) The reports required by subsection (a) shall be available no later than one hundred and twenty days after the end of fiscal year 1982.

SEC. 5. (a)(1) The Director shall—

(A) prepare—

(i) printed copies of each of the reports required by this Act; and

(ii) computer tapes of such reports; and

(B) make the printed copies of the reports and the computer tapes available to the public for purchase at a price fixed under subsection (b).

(2) The Director shall transmit free of charge one of each of the printed copies of the reports required by this Act to—

(A) each Federal regional depository library;

(B) the Committees on Government Operations, the Budget, and Appropriations of the House of Representatives; and

(C) the Committees on Governmental Affairs, the Budget, and Appropriations of the Senate.

(3) The Director shall also promptly transmit, free of charge, one computer tape of the report required by section 3 annually and of the data in the system required by section 8 quarterly to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.

(4) Subject to subsection (b), the Director may, at his discretion, waive all or part of the fee required by subsection (a)(1)(B) of this section.



(b) In carrying out subsection (a)(1)(B), the Director shall, based on the estimates made under paragraphs (1) and (2) of this subsection, fix the price of each printed copy and each computer tape of the report so that the aggregate revenues obtained in each fiscal year under subsection (a) will cover as much of the incremental costs incurred in making these reports and tapes available for purchase by the public as is feasible. In computing these costs the Director shall not consider the costs of the activities set forth in sections 7, 8, and 10, but shall consider—

Price fixing.

(1) the cost of compiling the reports required by this Act; preparing the printed copies and computer tapes under subsection (a); and distributing the printed copies and the computer tapes of the report for each fiscal year; and

(2) the number of printed copies and the number of computer tapes of the report that will be purchased.

SEC. 6. In order to carry out sections 3, 4, and 5 of this Act, the Director may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out such sections. The Director shall oversee the activities of any authority to which responsibilities are delegated under this section and shall monitor the compliance of each authority with respect to the requirements set forth in section 7.

31 USC 6102  
note

SEC. 7. Each head of any authority of the Government having custody of the data files and systems referred to in section 3(c) shall make available to the Director or other authority to which the Director has delegated the responsibility to carry out such section, such information, administrative services, equipment, personnel, and facilities as the Director or such authority requires to carry out such section.

31 USC 6102  
note.

SEC. 8. (a) The Director shall operate and maintain, and update on a quarterly basis, the Federal assistance awards data system established as a result of the study conducted by the Director under section 9 of the Federal Program Information Act (31 U.S.C. 1701 note).

Federal  
assistance  
awards data  
system,  
maintenance.  
31 USC 6102  
note.

(b) In order to carry out subsection (a), the Director—

(1) may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out subsection (a), and

(2) shall review any reports submitted to him by Federal agencies in the process of carrying out subsection (a) and may validate, by appropriate means, the processes by which Federal agencies prepared such reports.

SEC. 9. The Director shall designate a single organizational unit to provide for data consistency and uniform reporting of data elements.

31 USC 6102  
note

SEC. 10. The Comptroller General shall conduct a review of the data systems and reports required by this Act. This review shall include a determination of the accuracy of the data contained within the report required by section 3 and the costs of data collection, report preparation, and dissemination of such data and report. The review shall also include an analysis of the use and primary users of the data. In making this review, the Comptroller General shall consult with Members of Congress, the Congressional Budget Office, the Office of Management and Budget, the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, the Census Bureau, representatives of State and local governments, and any other persons he deems appropriate. This review shall be submitted to the Committee

Review  
31 USC 6102  
note

Submittal to  
congressional  
committees.

on Governmental Affairs of the Senate and the Committee on Operations of the House of Representatives no later than October 1, 1984.

Data, submittal  
to congressional  
committees.  
31 USC 6102  
note.

**SEC. 11.** (a) Each head of any executive department or establishment that has compiled or can readily compile data that would have been included in the reports entitled "the Geographic Distribution of Federal Funds" for fiscal year 1981 or fiscal year 1982, or both, shall forward a copy of such to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives. Delivery of such shall be made within sixty days after enactment of this Act for fiscal year 1981 and within one hundred and twenty days of the close of the fiscal year for fiscal year 1982.

Failure to  
submit data,  
statement.

(b) Each head of any executive department or establishment who does not forward a copy of data as required by subsection (a) for fiscal year 1981 or fiscal year 1982 shall submit a statement to that effect, along with a statement of the reasons for the failure, to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—S. 2386 (H.R. 7096):**

HOUSE REPORT No. 97-878 accompanying H.R. 7096 (Comm. on Government Operations).

SENATE REPORT No. 97-473 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 29, considered and passed Senate.

Sept. 28, H.R. 7096, considered and passed House; S. 2386, amended, passed in lieu.

Oct. 1, Senate concurred in House amendments.

Public Law 97-327  
97th Congress

An Act

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Oct. 15, 1982

[S. 2574]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Federal-Aid Highway Act of 1982".

SEC. 2. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1984," and inserting in lieu thereof the following: "the additional sum of \$3,225,000,000 for the fiscal year ending September 30, 1984,".

Federal-Aid  
Highway Act of  
1982.  
23 USC 101 note.  
23 USC 101 note.

SEC. 3. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1984, the sums authorized to be apportioned for such year by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the committee print numbered 97-53 of the Committee on Public Works and Transportation of the House of Representatives.

Apportioned  
funds  
23 USC 104 note  
23 USC 101 note.

SEC. 4. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums (multiplied by a factor determined by dividing the maximum number of days in the fiscal year ending September 30, 1983, for which funds are appropriated by a joint resolution making continuing appropriations for such fiscal year, by 365 days) are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, \$1,500,000,000 for the fiscal year ending September 30, 1983. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, \$400,000,000 for the fiscal year ending September 30, 1983.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, \$800,000,000 for the fiscal year ending September 30, 1983.

(3) For the forest highways, out of the Highway Trust Fund, \$33,000,000 for the fiscal year ending September 30, 1983.

(4) For public lands highways, out of the Highway Trust Fund, \$16,000,000 for the fiscal year ending September 30, 1983.

(5) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, \$50,000,000 for the fiscal year ending September 30, 1983.

(6) For the Great River Road, out of the Highway Trust Fund, \$25,000,000 for the fiscal year ending September 30, 1983, for construction or reconstruction of roads on a Federal-aid highway system.

23 USC 104 note.

(b) For fiscal year 1984, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

Apportioned funds.

(c) In the case of priority primary routes, \$125,000,000 (multiplied by the factor determined under subsection (a) of this section) of the sums authorized for the fiscal year ending September 30, 1983, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such \$125,000,000 (multiplied by such factor) shall be available for obligation on the date of apportionment of funds for such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such \$125,000,000 (multiplied by such factor) shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such \$125,000,000 (multiplied by such factor) not obligated by such Secretary on or before the last day of such fiscal year shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for primary system routes, and available for obligation for the same periods as such apportionment.

Appropriation authorization.

SEC. 5. (a) The following sums are hereby authorized to be appropriated:

(1) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, \$900,000,000 (multiplied by the factor determined under section 4(a) of this Act) for the fiscal year ending September 30, 1983.

(2) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, \$200,000,000 (multiplied by the factor determined under section 4(a) of this Act) for the fiscal year ending September 30, 1983.

23 USC 130 note.

(b) Section 203(b) of the Highway Safety Act of 1973, as amended, is amended by striking out "and \$190,000,000" and inserting in lieu thereof "\$190,000,000" and by inserting after "September 30, 1982" the following: ", and \$190,000,000 (multiplied by the factor determined under section 4(a) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983".

(c)(1) Section 144(e) of title 23, United States Code, is amended by striking out "and September 30, 1982" and inserting in lieu thereof "September 30, 1982, and September 30, 1983".

Apportioned funds.

(2) Section 144(g) of title 23, United States Code, is amended by inserting after the third sentence the following new sentences: "Of the amount authorized for the fiscal year ending September 30, 1983, by paragraph (1) of section 5(a) of the Federal-Aid Highway Act of 1982, all but \$200,000,000 (multiplied by the factor determined under section 4(a) of such Act) shall be apportioned as provided in subsection (e) of this section. \$200,000,000 (multiplied by

such factor) of the amount authorized for such fiscal year shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such \$200,000,000 (multiplied by such factor) shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than \$10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than \$10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge.”.

SEC. 6. Section 401(a) of the Surface Transportation Assistance Act of 1978 is amended by inserting after “or by any Act amended by this Act” the following: “or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Urban Mass Transportation Act of 1964”.

23 USC 101  
note.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—S. 2574:

SENATE REPORT No. 97-421 (Comm. on Environment and Public Works).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate; considered and passed House, amended;  
Senate concurred in House amendment.

Public Law 97-328  
97th Congress

## An Act

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Oct. 15, 1982  
[H.R. 6276]

To amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

District of  
Columbia Self-  
Government and  
Governmental  
Reorganization  
Act,  
amendment

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first sentence of section 490(a)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-334) is amended by inserting "college and university programs which provide loans for the payment of educational expenses for or on behalf of students," after "college and university facilities,".

Approved October 15, 1982.

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LEGISLATIVE HISTORY—H.R. 6276:

HOUSE REPORT No. 97-634 (Comm. on the District of Columbia).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 9, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-329  
97th Congress

An Act

To designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

Oct 15, 1982  
[S 2436]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

CONGRESSIONAL FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds and declares that—

(1) the Mary McLeod Bethune Council House was the residence in Washington, District of Columbia, of Mary McLeod Bethune, renowned educator, national political leader, and founder of the National Council of Negro Women;

(2) it was at this location that Mary McLeod Bethune directed activities that brought her national and international recognition;

(3) this site was significant as a center for the development of strategies and programs which advanced the interests of black women and the black community;

(4) it was at this location that Mary McLeod Bethune as the president of the National Council of Negro Women received heads of state, government officials, and leaders from across the world;

(5) the Mary McLeod Bethune Council House was the first national headquarters of the National Council of Negro Women, and is the site of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History;

(6) the archives, which houses the largest extant manuscript collection of materials pertaining to black women and their organizations, contains extensive correspondence, photographs, and memorabilia relating to Mary McLeod Bethune; and

(7) the museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

(b) PURPOSE.—It is the purpose of this Act—

(1) to assure the preservation, maintenance, and interpretation of this house and site because of the historic meaning and prominence of the life and achievements of Mary McLeod Bethune, an outstanding leader in the areas of housing, employment, civil rights, and women's rights; and

(2) to assure the continuation of the Mary McLeod Bethune Memorial Museum and the National Archives for Black

Mary McLeod  
Bethune  
Council House,  
D C  
National historic  
site, designation.  
16 USC 461 note

Women's History at this site, the preservation of which is necessary for the continued interpretation of the history of black women in America.

#### ESTABLISHMENT OF HISTORIC SITE

SEC. 2. In order to further the purpose of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Mary McLeod Bethune Council House at 1318 Vermont Avenue Northwest, in the city of Washington, District of Columbia, is hereby designated as a national historic site (hereinafter in this Act referred to as the "historic site").

#### COOPERATIVE AGREEMENT

SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the National Council of Negro Women. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

No limitation or control of any kind over the use of such properties customarily used for the purposes of the National Council of Negro Women shall be imposed by any such agreement.

#### ANNUAL REPORT

SEC. 4. The National Council of Negro Women shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary of the Interior and to the Congress of the United States an annual report documenting the activities and expenditures for which any such assistance was used during the preceding fiscal year.

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated \$100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women

Appropriation  
authorization.



for purposes of this Act an additional \$100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—S 2436

SENATE REPORT No. 97-534 (Comm. on Energy and Natural Resources)  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 22, considered and passed Senate

Sept. 30, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41 (1982)

Oct. 15, Presidential statement

Public Law 97-330  
97th Congress

An Act

Oct. 15, 1982  
[H.R. 4476]

To amend the Administrative Conference Act, by authorizing appropriations therefor.

Administrative  
Conference Act,  
amendment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 576 of title 5, United States Code, is amended to read as follows:

**“§ 576. Appropriations**

**“There are authorized to be appropriated to carry out the purposes of this subchapter sums not to exceed \$2,300,000 for the fiscal year ending September 30, 1982, and not to exceed \$2,300,000 for each fiscal year thereafter up to and including the fiscal year ending September 30, 1986.”**

Approved October 15, 1982.

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LEGISLATIVE HISTORY—H.R. 4476:

HOUSE REPORT No. 97-511 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 14, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-331  
97th Congress

An Act

To amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1983, 1984, and 1985, and for other purposes.

Oct. 15, 1982

[H.R. 6273]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Motor Vehicle  
Safety and Cost  
Savings  
Authorization  
Act of 1982.  
15 USC 1381  
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Motor Vehicle Safety and Cost Savings Authorization Act of 1982".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended by striking out "not" and all that follows through the period, and inserting in lieu thereof "\$51,400,000 for fiscal year 1983, \$55,000,000 for fiscal year 1984, and \$58,700,000 for fiscal year 1985."

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by striking out "title" and all that follows through the period, and inserting in lieu thereof "title \$320,000 for fiscal year 1983, \$343,000 for fiscal year 1984, and \$365,000 for fiscal year 1985."

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by striking out "title" and all that follows through the period, and inserting in lieu thereof "title \$1,677,000 for fiscal year 1983, \$1,800,000 for fiscal year 1984, and \$1,950,000 for fiscal year 1985."

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by striking out "title" and all that follows through the period, and inserting in lieu thereof "title \$183,000 for fiscal year 1983, \$196,000 for fiscal year 1984, and \$210,000 for fiscal year 1985."

STATE ENFORCEMENT AUTHORITY

SEC. 3. Section 103(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392(d)) is amended by inserting after the first sentence thereof the following new sentence: "Nothing in this section shall be construed as preventing any State from enforcing any safety standard which is identical to a Federal safety standard."

TIRE REGISTRATION INFORMATION; NOTICE OF TIRE DEFECTS

SEC. 4. (a) Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

“(2)(A) Except as provided in paragraph (3), the Secretary shall not have any authority to establish any rule which requires a dealer or distributor to complete or compile the records and information specified in paragraph (1) if the business of such dealer or distributor is not owned or controlled by a manufacturer of tires.

“(B) The Secretary shall require each dealer and distributor whose business is not owned or controlled by a manufacturer of tires to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. The contents and format of such forms shall be established by the Secretary and shall be standardized for all tires. Sufficient copies of such forms shall be furnished to such dealers and distributors by manufacturers of tires.

“(3)(A) At the end of the two-year period following the effective date of this paragraph (and from time to time thereafter), the Secretary shall evaluate the extent to which the procedures established in paragraph (2) have been successful in facilitating the establishment and maintenance of records regarding the first purchasers of tires.

“(B)(i) The Secretary, upon completion of any evaluation under subparagraph (A), shall determine (I) the extent to which dealers and distributors have encouraged first purchasers of tires to register the tires, and the extent to which dealers and distributors have complied with the procedures established in paragraph (2); and (II) whether to impose upon manufacturers, dealers, or distributors (or any combination of such groups) any requirements which the Secretary determines will result in a significant increase in the percentage of first purchasers of tires with respect to whom records would be established and maintained.

“(ii) Manufacturers of tires shall reimburse dealers and distributors for all reasonable costs incurred by them in order to comply with any requirement imposed by the Secretary under clause (i).

“(iii) The Secretary may order by rule the imposition of requirements under clause (i) only if the Secretary determines that such requirements are necessary to reduce the risk to motor vehicle safety, after considering (I) the cost of such requirements to manufacturers and the burden of such requirements upon dealers and distributors, as compared to the additional percentage of first purchasers of tires with respect to whom records would be established and maintained as a result of the imposition of such requirements; and (II) the extent to which dealers and distributors have encouraged first purchasers of tires to register the tires, and the extent to which dealers and distributors have complied with the procedures established in paragraph (2).

“(iv) The Secretary, upon making any determination under clause (i), shall submit a report to each House of the Congress containing a detailed statement of the nature of such determination, together with an explanation of the grounds for such determination.”.

(b) Section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413(c)) is amended—

(1) in paragraph (2) thereof, by striking out “or tire,” and by striking out “or tire”;

(2) by redesignating paragraph (4) and paragraph (5) thereof as paragraph (5) and paragraph (6), respectively, and by inserting after paragraph (3) thereof the following new paragraph:

“(4) in the case of a tire (A) by first-class mail to the most recent purchaser known to the manufacturer; and (B) by public notice in such manner as the Secretary may order after consultation with the manufacturer, if the Secretary determines that such public notice is necessary in the interest of motor vehicle safety, after considering (i) the magnitude of the risk to motor vehicle safety caused by the defect or failure to comply; and (ii) the cost of such public notice as compared to the additional number of owners who could be notified as a result of such public notice;”; and

(3) in the last sentence thereof—

(A) by striking out “(or of a motor vehicle on which such tire was installed as original equipment)”;

(B) by inserting “by first-class mail” after “notification” the first place it appears therein; and

(C) by striking out “(1) or (2)” and inserting in lieu thereof “(4)(A)”.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 6273:**

HOUSE REPORT No. 97-576 (Comm. on Energy and Commerce)

SENATE REPORT No. 97-505 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 14, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-332  
97th Congress

An Act

Oct. 15, 1982

[H.R. 2528]

Economy Act,  
amendment.

To amend the Economy Act to provide that all departments and agencies may obtain materials or services from other agencies by contract, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 7(a) of the Act of May 21, 1920, entitled “An Act making appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service, for the fiscal year ending June 30, 1921, and for other purposes” (31 U.S.C. 686(a)), as amended by the Act of June 30, 1932, commonly referred to as the Economy Act of 1932, is amended—

(1) by striking out “in a position to supply or equipped to render” and inserting in lieu thereof “in a position or equipped to supply, render, or obtain by contract”;

(2) by striking out the first proviso in such section, and by striking out “further” in the second proviso;

(3) by striking out “competitive bids” in such second proviso and inserting in lieu thereof “contract”; and

(4) by adding at the end thereof the following new sentence: “Any condition or limitation applicable to the procurement funds of any executive department, independent establishment, bureau, or office which places an order or lets a contract under the provisions of this section shall be applied in placing such order or letting such contract.”.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—H.R. 2528:

HOUSE REPORT No. 97-456 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 23, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-333  
97th Congress

An Act

To establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington

Oct 15, 1982

[H R 1486]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Protection Island National Wildlife Refuge Act".

Protection  
Island National  
Wildlife Refuge  
Act  
16 USC 668dd  
note.

SEC. 2. The Congress finds that—

(1) Protection Island provides nesting habitat for 72 per centum of the entire seabird population of Puget Sound and the Strait of Juan de Fuca;

(2) this island also provides refuge for other species, including the endangered bald eagle and the harbor seal; and

(3) this island is a nationally significant environmental resource threatened with destruction through residential and related development.

SEC. 3. As used in this Act:

Definitions

(a) The term "refuge" means the Protection Island National Wildlife Refuge that includes those lands and waters, and interests therein, located in Jefferson County, State of Washington, that are depicted on the map entitled "Protection Island National Wildlife Refuge", dated September 1980, and on file at the United States Fish and Wildlife Service. The purposes of the refuge are to provide habitat for a broad diversity of bird species, with particular emphasis on protecting the nesting habitat of the bald eagle, tufted puffin, rhinoceros auklet, pigeon guillemot, and pelagic cormorant; to protect the hauling-out area of harbor seals; and to provide for scientific research and wildlife-oriented public education and interpretation."

(b) The term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) Subject to subsections (b) and (c), the Secretary is authorized to acquire lands and waters or interests therein within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange.

(b)(1) In the case of any person who is the owner of land as of January 1, 1982, that—

(A) is within the boundaries of the refuge and contains a structure, suitable for use as a personal residence, that was located on the land on January 1, 1982; and

(B) in the judgment of the Secretary the United States should acquire a fee simple interest therein;

the Secretary shall first offer to acquire the land subject to a life use, or, at the option of the owner, to an extended use reservation for a shorter term of years, subject to such terms and conditions as the Secretary deems necessary or appropriate to insure that the land will be used in a manner that is compatible with the purposes for which the refuge is established.

(2) Acquisition of land subject to life uses or other extended use reservations under paragraph (1) shall be made on the basis of the fair market value of the land and improvements thereon at the time

of acquisition less 1 per centum of such value for each year of the reservation. The term of life uses shall be calculated on an actuarial basis.

(c) With respect to land within the boundaries of the refuge other than land described in subsection (b), the Secretary, in order to lessen the impact of Federal question on the present owners, shall give special consideration to providing for extended use reservations to the extent compatible with the purposes for which the refuge is established.

(d) Any owner of property within the refuge may offer to sell his property to the Secretary for the amount determined by the Jefferson County assessor to be the assessed value of the property as of the date that the offer is tendered. Prior to two years after Congress has appropriated funds to the Secretary to make purchases under this Act, the Secretary may immediately purchase such properties pursuant to such offers, may tender immediate payment for such properties, and may take immediate possession of such properties, in order to accommodate such owners. Any purchase made pursuant to this section shall not be subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. 4601-4655).

(e) Prior to two years after Congress has appropriated funds to the Secretary to make purchases under this Act, the Secretary shall not acquire any of the property within the refuge by exercising the power of eminent domain except as may be necessary to control public access to concentrated nesting sites within the refuge.

Notice;  
publication in  
Federal  
Register.

SEC. 5. The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired. The Secretary may make such minor revisions in the boundaries of the refuge as may be appropriate to carry out the provisions of this Act.

Administration.

SEC. 6. Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

SEC. 7. Beginning October 1, 1982, there are authorized to be appropriated \$4,000,000 for acquisition of lands and waters, and interests therein, for the refuge.

Jones Island  
National  
Wildlife Refuge,  
transfer to State  
of Washington

SEC. 8. In consideration of the prior transfer of certain properties now in the San Juan National Wildlife Refuge by the Washington State Parks and Recreation Commission to the Department of the Interior, the Secretary of the Interior shall transfer all ownership, jurisdiction, and control over the Jones Island National Wildlife



Refuge, more particularly described as section 10, tract B; section 11, tract A, lots 1, 2, and 3; section 14, tract C, lots 1 to 5 inclusive, and the northeast quarter of the northwest quarter, all of township 36 north, range 3 west, Willamette Meridian, all in the State of Washington, to the State of Washington for use as a public recreation area to be managed in accordance with the applicable laws of the State of Washington.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 1486**

HOUSE REPORT No. 97-403 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 97-426 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed House

Vol. 128 (1982): June 9, considered and passed Senate, amended.

Sept. 30, House concurred in Senate amendments.

Public Law 97-334  
97th Congress

An Act

Oct. 15, 1982  
[S. 2457]

To amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

District of  
Columbia Self-  
Government and  
Governmental  
Reorganization  
Act,  
amendment.  
D.C. Code  
47-2501d.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 2501d) is amended by striking out “and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of \$336,600,000” in the first sentence and inserting in lieu thereof “for the fiscal year ending September 30, 1982, the sum of \$336,600,000; and for the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of \$361,000,000”.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—S. 2457 (H.R. 5595):

HOUSE REPORT No. 97-512 and pt II both accompanying H.R. 5595 (Comm. on the District of Columbia).

SENATE REPORT No. 97-471 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 21, considered and passed Senate.

Aug. 12, H.R. 5595 considered and passed House; S. 2457, amended, passed in lieu.

Oct. 1, Senate and House agreed to conference report.

Public Law 97-335  
97th Congress

An Act

Relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine.

Oct. 15, 1982  
[S 1777]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—*

(1) there are significant scenic, educational, natural, and cultural resources in the town of Isle au Haut, Maine;

(2) due to the isolated location and traditional resource-based economy of the town's island community, these resources are fragile and deserving of conservation and protection through both public and private efforts; and

(3) both residents of the town and visitors to the Acadia National Park will benefit from the establishment of a permanent boundary for the park and the management of parklands on a limited entry, low intensity basis.

SEC. 2. Notwithstanding any other provision of law, the permanent boundary of Acadia National Park lying within the town of Isle au Haut, Maine, is hereby established to include only those lands and interests therein as are depicted on the map entitled "Boundary Map, Acadia National Park, Town of Isle au Haut, Maine", numbered 123-80003 and dated October 1981, which map is on file and available for public inspection in the offices of the Department of the Interior and at the Registry of Deeds for Hancock and Knox Counties, Maine.

Acadia National  
Park, Maine,  
boundary  
establishment  
16 USC 341 note.

Public  
inspection  
16 USC 341 note

SEC. 3. (a) Within the boundary established by section 2, and as indicated on the map referenced therein, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized to acquire lands and interests therein by donation or exchange. The Secretary is authorized and directed to acquire by donation, purchase with donated or appropriated funds, or exchange the tract known as the Hamilton lot in Duck Harbor. No later than one hundred and eighty days from enactment hereof, the Secretary shall convey to the town of Isle au Haut all right, title and interest of the United States in and to those lands under the jurisdiction of the Secretary which lie outside the boundary established by section 2 and within the town of Isle au Haut, subject only to such covenants running with the land as the Secretary and the town agree are necessary to preserve the general character of such lands, which shall include covenants to maintain forever in their natural condition (excepting the cutting of fire trails and the extinguishment of fires) lands above three hundred feet above the mean high water level: *Provided, however,* That such covenants with respect to lands above three hundred feet and below four hundred feet shall permit the gathering and removal of dead and fallen timber.

Land acquisition  
16 USC 341 note

Land  
conveyance

(b) Notwithstanding any other provisions of this Act, the Secretary is also authorized to accept by donation, as a coholder for enforcement purposes only, a limited enforcement interest in con-

Enforcement

servation easements on lands outside the boundary established by section 2 hereof and within the town of Isle au Haut which may from time to time be donated to the Isle au Haut Land Conservation Trust, a trust established under the laws of the State of Maine. The Superintendent of Acadia National Park is hereby authorized to serve as an ex officio trustee of such trust.

Parkland  
preservation.  
16 USC 341 note.

SEC. 4. (a) The management and use of parklands on Isle au Haut shall not interfere with the maintenance of a viable local community with a traditional resource-based economy outside the boundary of the park. To the maximum extent practicable, no development or plan for the convenience of park visitors shall be undertaken which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this portion of the park in as nearly its present state and condition as possible. In recognition of the special fragility and sensitivity of the park's resources, visitation shall be strictly limited to assure negligible adverse impact on such resources, to conserve the character of the town and to protect the quality of the visitor experience.

Report.

(b) In furtherance of the purpose of subsection (a) of this section, the Secretary shall prepare a report establishing carrying capacities for the Isle au Haut portion of Acadia National Park. The report shall be prepared and the carrying capacities established with public participation and in consultation with the town of Isle au Haut and other interested parties.

Report to  
congressional  
committees.

(c) The Secretary shall transmit the report to the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than six months from the date of enactment of this Act. The Secretary shall begin implementing the carrying capacities contained in the report sixty days after the report has been transmitted to the committees.

Review and  
revision.

(d) Carrying capacities established pursuant to this section shall be reviewed, and if necessary revised, every five years. Any revision in such carrying capacity shall be made in accordance with the procedures set forth in subsections (b) and (c) of this section.

(e) Until such time as a carrying capacity limitation is established and implemented pursuant to subsections (b) and (c) of this section, the Secretary shall take such temporary measures as are necessary to assure that visitation does not exceed the average annual visitation for the period 1979 to 1981.

SEC. 5. There are hereby authorized to be appropriated after October 1, 1982, such sums as may be necessary to carry out the provisions of this Act.

Appropriation  
authorization  
16 USC 341 note.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—S. 1777:

SENATE REPORT No. 97-425 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 10, considered and passed Senate.

Sept. 30, considered and passed House.

Public Law 97-336  
97th Congress

## An Act

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Oct. 15, 1982

[S. 2375]

To extend the expiration date of the Defense Production Act of 1950.

Defense  
Production  
Act of 1950,  
extension.  
95 Stat. 954.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "March 31, 1983".

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—S. 2375 (S. 1135):**

SENATE REPORTS: No. 97-412 (Comm. on Banking, Housing, and Urban Affairs) and No. 97-93 accompanying S. 1135 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate; considered and passed House, amended; Senate concurred in House amendments.

Public Law 97-337  
97th Congress

An Act

To amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes.

Oct. 15, 1982

[H R 3278]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1087 of title 10, United States Code, relating to the programing of space for care of retired members and their dependents, is amended—

Military retirees  
and dependents.  
Medical  
facilities.

(1) by inserting “(a)” before “Space for”; and

(2) by striking out the second sentence and inserting in lieu thereof the following: “The maximum amount of space that may be so programed for a facility is the greater of—

“(1) the amount of space that would be so programed for the facility in order to meet the requirements to be placed on the facility for support of the teaching and training of health-care professionals; and

“(2) the amount of space that would be so programed for the facility based upon the most cost-effective provision of inpatient and outpatient care to persons covered by sections 1074(b) and 1076(b) of this title.

10 USC 1074,  
1076.

“(b)(1) In making determinations for the purposes of clauses (1) and (2) of subsection (a), the Secretary concerned shall take into consideration—

“(A) the amount of space that would be so programed for the facility based upon projected inpatient and outpatient workloads at the facility for persons covered by sections 1074(b) and 1076(b) of this title; and

“(B) the anticipated capability of the medical and dental staff of the facility, determined in accordance with regulations prescribed by the Secretary of Defense and based upon realistic projections of the number of physicians and other health-care providers that it can reasonably be expected will be assigned to or will otherwise be available to the facility.

“(2) In addition, a determination made for the purpose of clause (2) of subsection (a) shall be made in accordance with an economic analysis (including a life-cycle cost analysis) of the facility and consideration of all reasonable and available medical care treatment

10 USC 1086.  
42 USC 1395c.  
Effective  
date.  
10 USC 1087  
note.

**alternatives (including treatment provided under a contract under section 1086 of this title or under part A of title XVIII of the Social Security Act).”.**

**SEC. 2.** The amendment made by paragraph (2) of the first section of this Act shall apply only with respect to a facility for which funds for construction (or a major alteration) are first appropriated for a fiscal year after fiscal year 1983.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 3278:**

HOUSE REPORT No. 97-857 (Comm. on Armed Services).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 28, considered and passed House.  
Oct. 1, considered and passed Senate.



Public Law 97-338  
97th Congress

An Act

To authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes.

Oct. 15, 1982

[H.R. 6188]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized to engage in a special study to assist the State of Nebraska in establishing water resource conservation and development priorities, consistent with constitutional and statutory provisions of the State of Nebraska, in the Platte River Basin from the western border of the State of Nebraska to the confluence of the Platte and Missouri Rivers.

Platte River,  
Nebr.  
Federal-State  
study.

The purposes of the study shall be to—

(a) determine the availability of water resources within the basin;

(b) identify, define, and quantify the existing and foreseeable intrabasin and interbasin demands on such resources within the State of Nebraska (including irrigation, ground water stabilization and recharge, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, preservation of scenic qualities, flood control, hydroelectric power development, municipal and industrial water supplies, and such other demands as the study may identify);

(c) identify, evaluate, and estimate costs for alternative methods of meeting the identified water demands, including but not limited to withdrawals from the Platte River, groundwater pumping, water conservation, and improved water management; and

(d) resolve the identified conflicts by making specific recommendations on the full and best utilization of the available water supply, including a priority ranking for implementing recommended water conservation and development projects.

SEC. 2. The special study authorized by section 1 of this Act shall be a Federal-State study conducted jointly by the Bureau of Reclamation and the Nebraska Natural Resources Commission. The broadly constituted study body responsible for making the recommendations required by section 1 shall consist of such citizens, representatives of agricultural, environmental and development groups, State and local officials, and Federal agency representatives as the Governor of Nebraska and the Secretary shall jointly determine. Federal agencies invited to participate shall include, but not be limited to, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency. The special study authorized by section 1 of this Act shall be completed within thirty months after funds are first appropriated under this Act.

Study  
completion.

SEC. 3. (a) There is hereby authorized to be appropriated the sum of \$350,000 to carry out section 1 of this Act. One-half of this sum shall be made available as a grant to the Nebraska Natural Re-

Appropriation  
authorization

sources Commission and shall be matched equally by direct contribution or in-kind services by the State of Nebraska, its political subdivisions, or other non-Federal entities.

(b) The sums expended or services provided by the State of Nebraska, its political subdivisions, or other non-Federal entities after March 9, 1982, for the purposes of this Act shall be considered in the determination of the matching non-Federal share.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 6188:**

HOUSE REPORT No. 97-713 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-562 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Aug. 16, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-339  
97th Congress

An Act

To authorize appropriations under the Arms Control and Disarmament Act, and for other purposes

Oct. 15, 1982

[H.R. 3467]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arms Control and Disarmament Amendments Act of 1982".*

SEC. 2. (a) Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1982, \$18,268,000,

"(2) for the fiscal year 1983, \$19,893,852, and

"(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

Amounts appropriated under this subsection are authorized to remain available until expended."

SEC. 3. Section 45(a) of the Arms Control and Disarmament Act (22 U.S.C. 2535(a)) is amended by inserting the following new sentence after the second sentence thereof: "In the case of persons detailed from other Government agencies, the Director may accept the results of full-field background security and loyalty investigations conducted by the Department of Defense or the Department of State as the basis for the determination required by this subsection that the person is not a security risk or of doubtful loyalty."

Arms Control  
and  
Disarmament  
Amendments  
Act of 1982.  
22 USC 2551  
note.

22 USC 2585

**SEC. 4. Section 31(c) of the Arms Control and Disarmament Act (22 U.S.C. 2571) is amended by inserting “and of all aspects of antisatellite activities” immediately before the semicolon.**

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 3467 (S. 1193):**

HOUSE REPORT No. 97-55 (Comm. on Foreign Affairs).

SENATE REPORT No. 97-430 (Comm. on Foreign Relations).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 8, considered and passed House.

Vol. 128 (1982): Oct. 1, considered and passed Senate, amended; House agreed to Senate amendment.

Public Law 97-340  
97th Congress

An Act

To provide for the conveyance of certain lands in Alaska comprising trade and trade manufacturing site A-056802 without regard to the eighty-rod limitation provided by existing law.

Oct. 15, 1982  
[H.R. 1281]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subject to the requirements provided in section 2 of this Act, the Secretary of the Interior is authorized to reconsider and act upon trade and manufacturing claim application A-056802, comprising approximately 16.33 acres in the State of Alaska, under section 10 of the Act of May 14, 1898 (30 Stat. 413, as amended and supplemented, 43 U.S.C. 687a), without regard to the eighty-rod limitation contained in the first proviso of that section. The land comprising trade and manufacturing claim A-056802 is located between Nuyakuk and Tikchik Lakes in protracted section 36, T. 2 S., R. 54 W., Seward meridian.

Alaska, certain  
lands,  
conveyance.

SEC. 2. Notwithstanding the payment provisions in section 10 of the Act of May 14, 1898, the Secretary of the Interior shall require payment of fair market value for the approximately 6.27 acres authorized to be conveyed under this Act in excess of the approximately 10.06 acres to which the Secretary has determined the applicant would have been entitled under section 10, had the eighty-rod limitation therein been applicable. Fair market value shall be determined by the Secretary as of the date of filing of such trade and manufacturing claim application A-056802, and shall not include the value of any enhancement of the land.

Fair market  
value, payment.

SEC. 3. The Secretary of the Interior shall not convey any land under this Act unless and until the State of Alaska conveys to the United States all right, title, and interest that it has in that portion

48 USC note  
prec. 21.

**of the land included in trade and manufacturing claim application A-056802 that has been selected under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, as amended), and tentatively approved, and warrants that it has not alienated or conveyed any interests in these lands to a third party. The State of Alaska is hereby authorized to make such a conveyance regarding such portion of such lands, notwithstanding any other provision of law.**

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 1281:**

HOUSE REPORT No. 97-357 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-560 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): Oct. 1, considered and passed Senate.

Public Law 97-341  
97th Congress

An Act

To provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes.

Oct 15, 1982

[S. 1872]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Where any Federal lands included within the boundary of Capitol Reef National Park are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

Capitol Reef  
National Park,  
grazing phaseout  
study  
16 USC 273b  
note

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1992,

notwithstanding the provisions of section 3 of the Act of December 18, 1971, entitled "An Act to establish the Capitol Reef National Park in the State of Utah" (85 Stat. 740; 16 U.S.C. 273b), the Secretary of the Interior shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1994.

SEC. 2. The Secretary of the Interior, acting through the Director of the National Park Service, in cooperation with the Director of the Bureau of Land Management, shall take such steps as may be necessary to, within ninety days after the enactment of this Act, enter into a contract with the National Academy of Sciences for the purpose of conducting a study of grazing in Capitol Reef National Park and vicinity to:

Contract  
16 USC 273b  
note.

(1) determine the historic and current impact of grazing upon the natural ecosystem and cultural resources of the park;

(2) determine the impacts of grazing upon visitor use within the park;

(3) evaluate alternatives to grazing within Capitol Reef National Park including means to increase grazing carrying capacity on adjacent Bureau of Land Management lands;

(4) determine the economic impact upon grazing permit holders, and on the local economy, if such permits were terminated; and

(5) include such other information and findings as may be deemed necessary by the Secretary of the Interior.

Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Director of the National Park Service no later than January 1, 1992. Progress reports regarding the study shall be transmitted to the above Committees on January 1, 1984, and January 1 of each year thereafter.

Transmittal to  
congressional  
committees

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. No

Appropriation  
authorization.  
16 USC 273b  
note.

**authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Nothing in this section shall be construed to prevent the Secretary of the Interior from utilizing, for purposes of the contract referred to in section 2, funds which are available to the Secretary for such purposes under authority of law.**

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—S. 1872:**

**HOUSE REPORT** No. 97-823 (Comm. on Interior and Insular Affairs).

**SENATE REPORT** No. 97-448 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

June 9, considered and passed Senate.

Sept. 20, considered and passed House, amended.

Sept. 30, Senate concurred in House amendments, with amendments; House concurred in Senate amendments.



Public Law 97-342  
97th Congress

An Act

To authorize the transfer of nine naval vessels to certain foreign governments.

Oct. 15, 1982

[H.R. 7115]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the sale under section 21 of the Arms Export Control Act (22 U.S.C. 2761) of a vessel of the United States Navy, as follows: the sale of one auxiliary drydock of the ARD 12 class to the Government of Ecuador.

Nine naval vessels, transfer to certain foreign governments.

SEC. 2. (a) The approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the lease under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796-2796c) of vessels of the United States Navy, as follows:

95 Stat. 1524.

(1) The lease of two patrol combatants of the Asheville class to the Government of Colombia.

(2) The lease of three fast patrol boats of the Osprey class to the Government of the Dominican Republic.

(3) The lease of one oceanographic research ship of the Conrad class to the Government of Mexico.

(4) The lease of one destroyer tender of the Arcadia class to the Government of Pakistan.

(5) The lease of one destroyer tender of the Dixie class to the Government of Turkey.

(b)(1) Except as provided in section 3, section 62 of the Arms Export Control Act (22 U.S.C. 2796a) shall not apply with respect to the leases described in subsection (a) of this section.

95 Stat. 1525.

(2) The requirement contained in section 61(a)(3) of the Arms Export Control Act (22 U.S.C. 2796(a)(3)) shall not apply to a lease described in subsection (a) of this section which would otherwise be subject to that requirement; however, any expense of the United States in connection with any such lease shall be charged to the government to which the vessel is leased.

95 Stat. 1524.

(3) Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a vessel described in subsection (a) of this section may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the vessel by the lessee.

Expiration.

SEC. 3. The approval to transfer naval vessels granted by this Act shall expire at the end of the two-year period beginning on the date of the enactment of this Act, but a lease for any such vessel which is entered into before the end of that period may be renewed in accordance with this Act, subject to the reporting requirement of section 62 of the Arms Export Control Act.

95 Stat. 1525.  
22 USC 2796a.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 7115 (S. 2965):**

HOUSE REPORTS: No. 97-843 pt. I (Comm. on Armed Services) and pt. II (Comm. on Foreign Affairs).

SENATE REPORT No. 97-595 accompanying S. 2965 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 28, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-343  
97th Congress

Joint Resolution

To provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week".

Oct. 15, 1982  
[S.J. Res. 241]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over fifty thousand in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40 and 55 per centum of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 per centum in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from \$5,000,000,000 to \$25,000,000,000 a year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marihuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many States have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

National Drunk  
and Drugged  
Driving  
Awareness  
Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week of December 12, 1982, through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Approved October 15, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 241:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 15, considered and passed Senate.  
Sept. 30, considered and passed House.

Public Law 97-344  
97th Congress

An Act

To provide for the partitioning of certain restricted Indian land in the State of Kansas.

Oct. 15, 1982

[S. 478]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any owner of an interest in the following lands:

Certain  
restricted Indian  
land, Kans.  
Partitioning.

(1) the north half southeast quarter of section 25, and 14 acres on the south side of southeast quarter northeast quarter of section 25 township 11 south, range 22 east, sixth principal meridian, Kansas, containing 94 acres and also known as the Newton McNeer Shawnee Reserve Numbered 206;

(2) the southeast quarter northwest quarter of section 12, township 12 south, range 23 east, sixth principal meridian, Kansas, containing 20 acres and also known as the Black Snake Shawnee Allotment Numbered 69;

(3) the east half, southwest quarter, section 13, township 19 south, range 24 east, sixth principal meridian, Kansas, containing 80 acres and known as the Maria Christiana Miami Allotment, lands derived from a patent under the Act of March 3, 1859 (11 Stat. 430) may commence an action in the United States District Court for Kansas to partition the same in kind or for the sale of such land in accordance with the laws of the State of Kansas. Moneys resulting from a sale in lieu of partition shall be distributed and administered through trust accounts of the Bureau of Indian Affairs in the case of Indian heirs. Moneys of non-Indian heirs shall be turned over to the appropriate State court in Kansas for distribution and administration in accordance with the laws of Kansas. For the purpose of such action, the Indian owners shall be regarded as vested with an unrestricted fee simple title to their interests in the land and the United States shall be a necessary party to the proceedings. Any conveyance ordered by the court in such proceedings will be made in unrestricted fee simple to non-Indian grantees and in a restricted fee to Indian grantees.

Approved October 15, 1982.

LEGISLATIVE HISTORY—S. 478:

HOUSE REPORT No. 97-341 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-107 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 127 (1981): May 21, considered and passed Senate.

Dec. 15, considered and passed House, amended.

Vol. 128 (1982): Oct. 1, Senate concurred in House amendment.

Public Law 97-345  
97th Congress

## An Act

Oct. 15, 1982  
[S. 1573]**To exempt the Lake Oswego, Oregon, hydroelectric facility from part I of the Federal Power Act (Act of June 10, 1920) as amended, and for other purposes.**Lake Oswego,  
Oreg.,  
hydroelectric  
facility.  
16 USC 791a.  
16 USC 2701  
note, 2705, 2708.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That part I of the Federal Power Act (Act of June 10, 1920) as amended, and section 408 of the Energy Security Act (Act of June 30, 1980), shall not be applicable to the Lake Oswego, Oregon, hydroelectric facility or Lake Oswego, until and unless otherwise provided by the Congress. Notwithstanding the preceding sentence, this Act shall not be construed to affect the applicability of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) to the Lake Oswego, Oregon, hydroelectric facility or to Lake Oswego.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—S.1573:**

HOUSE REPORT No. 97-893 (Comm. on Energy and Commerce).  
SENATE REPORT No. 97-387 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
May 19, considered and passed Senate.  
Sept. 30, considered and passed House, amended.  
Oct. 1, Senate concurred in House amendment.

Public Law 97-346  
97th Congress

An Act

To amend title 5, United States Code, to provide training opportunities for employees under the Office of the Architect of the Capitol and the Botanic Garden, and for other purposes.

Oct. 15, 1982  
[H.R. 5145]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 41 of title 5, United States Code, relating to employee training programs, is amended by adding at the end thereof the following new section:

Office of the  
Architect of the  
Capitol and  
Botanic Garden  
Employee  
training.  
5 USC 4101 *et*  
*seq.*  
5 USC 4119.

**“§ 4119. Training for employees under the Office of the Architect of the Capitol and the Botanic Garden**

“(a) The Architect of the Capitol may, by regulation, make applicable such provisions of this chapter as the Architect determines necessary to provide for training of (1) individuals employed under the Office of the Architect of the Capitol and the Botanic Garden and (2) other congressional employees who are subject to the administrative control of the Architect. The regulations shall provide for training which, in the determination of the Architect, is consistent with the training provided by agencies under the preceding sections of this chapter.

“(b) The Office of Personnel Management shall provide the Architect of the Capitol with such advice and assistance as the Architect may request in order to enable the Architect to carry out the purposes of this section.”.

(b) The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end thereof the following new item:

“4119. Training for employees under the Office of the Architect of the Capitol and the Botanic Garden.”.

SEC. 2. Section 5401(b) of title 5, United States Code, is amended by striking out “paragraph (2)” in paragraph (1) and inserting in lieu thereof “paragraphs (2) and (3)”, and by adding at the end thereof the following:

“(3) This chapter shall not apply to individuals employed under the Office of the Architect of the Capitol or the Botanic Garden.”.

SEC. 3. (a) Sections 8332(c)(1)(A), 8332(j)(2)(A), and 8334(j)(1) of title 5, United States Code, as amended by title III of the Omnibus Budget Reconciliation Act of 1982, are each amended by striking out “month” and inserting in lieu thereof “period”.

*Ante*, pp. 795,  
796.

(b) Section 8332(c)(1)(B) of such title 5 (as so amended) is amended to read as follows:

*Ante*, p. 795.

“(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for—

“(i) each period of military service performed before January 1, 1957, and

- Ante, p. 796.  
Ante, p. 793.
- (ii) each period of military service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this subchapter is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in section 8334(j) of this title.”.
- (c) Section 8334(e)(3) of such title 5 (as so amended) is amended by striking out “calendar” the second and third times such term appears and inserting in lieu thereof “fiscal”.
- (d) Section 8334(h) of such title 5 (as so amended) is amended by striking out “and (d)” and inserting in lieu thereof “, (d), and (j)”.
- Ante, p. 796.
- (e)(1) Section 8334(j)(1) of such title 5 (as so amended) is amended by striking out “within 90 days after the effective date of this subsection”, and by striking out all that follows “December 1956” and inserting in lieu thereof a period and the following: “The amount of such payments shall be based on such evidence of basic pay for military service as the employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Office under paragraph (4).”.
- 5 USC 8331 note.  
Ante, p. 795.
- (2) Section 306(g) of the Omnibus Budget Reconciliation Act of 1982 is amended by striking out the period and inserting the following: “; except that any employee or Member who retired after the date of the enactment of this Act and before October 1, 1983, or is entitled to an annuity under chapter 83 of title 5, United States Code, based on a separation from service occurring during such period, or a survivor of such individual, may make a payment under section 8334(j)(1) of title 5, United States Code. Regulations required to be issued under section 8334(j)(1) of title 5, United States Code, shall be issued by the Office of Personnel Management within 90 days after such effective date.”.
- 5 USC 8301 et seq.  
Regulations.  
Ante, p. 796.
- (f) Section 8342(a)(1)(B) of such title 5 (as so amended) is amended by striking out “such position” and inserting in lieu thereof “such a position”.
- Ante, p. 794.
- (g) Section 8348(a)(1)(B) of such title 5 is amended by inserting after “title” the following: “and in withholding taxes pursuant to section 3405 of title 26”.
- 5 USC 5532 note.  
Ante, p. 790.
- (h)(1) Section 301(d)(1) of the Omnibus Budget Reconciliation Act of 1982 is amended by inserting after “such position” the following: “, in accordance with regulations issued by the Office of Personnel Management,” and by inserting after the first sentence the following: “For purposes of the preceding sentence, the amount of any increase in any individual’s retired or retainer pay which takes effect during any fiscal year shall be determined on the basis of the additional amount such individual receives after the application of the preceding provisions of this section and section 5532 (b) and (c) of title 5, United States Code.”.
- (2) Section 301(d)(4) of such Act is amended by striking out “reduction in” and inserting in lieu thereof “deduction from”.
- 5 USC 5532 note.
- (3) Section 301(d) of such Act is amended by adding at the end thereof the following new paragraph:
- Information disclosure.
- “(5) The Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall furnish such information to employing agencies, the Secretary of the Senate, and the Clerk of the House of Representatives as may be necessary for the administration of this subsection.”.



(i) Section 302(c) of such Act is amended in paragraph (1) by striking out “, and shall apply with respect to individuals retiring on or after such date” and in paragraph (3) by inserting after “who” the following: “is separated from employment as a technician on or after October 1, 1982. Such subsection (h) shall also apply to any technician”.

*Ante*, p. 792.  
5 USC 8337 note.

(j)(1) Section 303(d)(1) of such Act is amended by striking out “made” and inserting in lieu thereof “for which application is received by either the employing agency or the Office of Personnel Management” and by adding at the end thereof the following: “Notwithstanding the preceding two sentences, the amendments made by subsection (a) shall apply in the case of any deposit for military service under section 8334(j) of title 5, United States Code (as added by section 306(d) of this Act), regardless of whether such military service was performed before or after October 1, 1982.”.

*Ante*, p. 793.  
5 USC 8334 note.

(2) Section 8344(a) of such title 5 is amended in the second sentence by inserting after “pay” the following: “unless the individual elects to have such deductions withheld under subparagraph (A)”, in subparagraph (A), by inserting before “his annuity” the following: “deductions for the Fund may be withheld from his pay (if the employee so elects), and”, and, in the eighth sentence, by inserting after “Fund” the following: “(to the extent deposits or deductions have not otherwise been made)”.

*Ante*, p. 796.

(k)(1) Section 307(a) of such Act is amended by inserting after “this Act” the following: “or who is entitled to an annuity based on a separation from service occurring on or before such date of enactment”.

*Ante*, p. 797.  
5 USC 8332 note.

(2) Section 307(b) of such Act is amended by striking out “insurance benefits under section 202(a)” and inserting in lieu thereof “or survivors’ insurance benefits under section 202” and by inserting after “such old-age” the following: “or survivors’ ”.

(3) Section 307(d)(1) of such Act is amended by striking out “insurance benefits under section 202(a)” and inserting in lieu thereof “or survivors’ insurance benefits under section 202”.

(l) Section 310(b)(1) of such Act is amended by inserting “pay periods beginning in” before “fiscal years” and by striking out “under the General Schedule” and inserting in lieu thereof “as defined in section 5504(b) of title 5, United States Code”.

*Ante*, p. 799.  
5 USC 5504 note.

(m) Section 351 of such Act is amended—

*Ante*, p. 800.  
5 USC 5728 note.

(1) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d),

(2) in subsection (c), as so redesignated—

(A) by striking out “The” and inserting in lieu thereof “(1) Except as provided in paragraph (2), the”, and

(B) by adding at the end thereof the following new paragraph:

“(2) The amendments made by this section shall not apply to any employee who is serving a tour of duty at a post of duty in Alaska or Hawaii on the date of the enactment of this Act during—

“(A) such tour of duty, and

“(B) any other consecutive tour of duty following such tour of duty.”, and

(3) by striking out “subsections (c) and (d)” in subsection (d), as so redesignated, and inserting in lieu thereof “subsection (c)”.

Effective date.  
5 USC 8332 note.  
*Ante*, p. 763.  
5 USC 8906 note.

(n) The amendments made by this section shall take effect as of the date of the enactment of the Omnibus Budget Reconciliation Act of 1982.

**SEC. 4.** (a) The Office of Personnel Management shall determine the amount by which the Government contribution under section 8906(b) of title 5, United States Code, for the 1983 contract year is less than the Government contribution which would have been determined under such section 8906(b) for such contract year if the Government contribution had been calculated by using the two employee organization plans which in 1981 satisfied the standard set forth in section 8906(a)(3) of such title.

(b) The Government shall pay the amount of the difference determined under subsection (a) to the contingency reserves of all health benefits plans for contract year 1983 in proportion to the estimated number of individuals enrolled in such plans during 1983. Such payments shall be paid by the appropriate agencies (including the Postal Service and the Postal Rate Commission) from the appropriations referred to in section 8906 (f) and (g) of title 5, United States Code, in the same manner as if such payments were Government contributions, and in amounts determined appropriate by the Office of Personnel Management.

95 Stat. 756.

**SEC. 5.** (a) Subparagraph (B) of section 3595(b)(3) of title 5, United States Code, is amended by inserting "(i)" after "entitled" and by inserting after "that position" the following: "or (ii) be detailed by the Office to any vacant Senior Executive Service position for which the Office deems the employee to be qualified in any agency for a period not to exceed 60 days, and be placed in such position by the Office after the period of such detail, unless the head of the agency determines that the career appointee is not qualified for such position."

(b) Paragraph (3) of section 3595(c) of such title is amended to read as follows:

"(3) in the event the career appointee is not placed under subsection (b)(3) of this section—

"(A) whether the Office of Personnel Management took all reasonable steps to achieve such placement, and

"(B) the decision of an agency under subsection (b)(3)(B) of this section that the career appointee is not qualified to be placed in a position."

Effective date.  
5 USC 3595 note.

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply to an individual who is a career appointee on or after September 30, 1982, except that any individual who is a career appointee on September 30, 1982, and who is described in section 3595(b)(3) of title 5, United States Code, may not be removed before December 15, 1982, due to a reduction in force, unless the removal is under section 3595(b)(4)(A) of such title on the grounds the individual declined a reasonable placement offer.

Effective date.

*Ante*, p. 1650.

95 Stat. 756.

Approved October 15, 1982.

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**LEGISLATIVE HISTORY—H.R. 5145:**

HOUSE REPORT No. 97-473 (Comm. on Post Office and Civil Service).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

May 11, considered and passed House.  
Sept. 29, considered and passed Senate, amended  
Oct. 1, House concurred in Senate amendments.

Public Law 97-347  
97th Congress

An Act

Oct. 18, 1982  
[H.R. 5662]

To extend until October 1, 1983, the authority and authorization of appropriations for certain programs under the Fish and Wildlife Act of 1956.

Fish and  
Wildlife Act of  
1956,  
amendment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(c)) (relating to loan authority to finance the acquisition, equipping, and maintenance of commercial fishing vessels and gear) is amended by striking out “September 30, 1982” each place it appears therein and inserting in lieu thereof “September 30, 1983”.

SEC. 2. Subsection (c)(6) of section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)(6)) (relating to volunteer services in fish and wildlife programs) is amended by striking out “and 1982.” and inserting in lieu thereof “1982 and 1983.”.

Approved October 18, 1982.

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LEGISLATIVE HISTORY—H.R. 5662:

HOUSE REPORT No. 97-514 (Comm. on Merchant Marine and Fisheries).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 8, considered and passed House.  
Oct. 1, considered and passed Senate.

Public Law 97-348  
97th Congress

An Act

To protect and conserve fish and wildlife resources, and for other purposes.

Oct. 18, 1982

[S. 1018]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Coastal Barrier  
Resources Act.  
16 USC 3501  
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coastal Barrier Resources Act”.

SEC. 2. FINDINGS AND PURPOSE.

16 USC 3501.

(a) FINDINGS.—The Congress finds that—

(1) coastal barriers along the Atlantic and Gulf coasts of the United States and the adjacent wetlands, marshes, estuaries, inlets and nearshore waters provide—

(A) habitats for migratory birds and other wildlife; and

(B) habitats which are essential spawning, nursery, nesting, and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other aquatic organisms such as sea turtles;

(2) coastal barriers contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological, cultural, and economic importance; which are being irretrievably damaged and lost due to development on, among, and adjacent to, such barriers;

(3) coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures;

(4) certain actions and programs of the Federal Government have subsidized and permitted development on coastal barriers and the result has been the loss of barrier resources, threats to human life, health, and property, and the expenditure of millions of tax dollars each year; and

(5) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf coasts by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing a Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

SEC. 3. DEFINITIONS.

16 USC 3502.

For purposes of this Act—

**(1) The term “undeveloped coastal barrier” means—**

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats (i) contain few manmade structures and these structures, and man’s activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes, and (ii) are not included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

(2) The term “Committees” refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term “financial assistance” means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221);

(B) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(C) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(D) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(E) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age survivors or disability insurance program.

Effective October 1, 1983, such term includes flood insurance described in section 1321 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4028).

(4) The term “Secretary” means the Secretary of the Interior.

(5) The term “System unit” means any undeveloped coastal barrier, or combination of closely-related undeveloped coastal barriers, included within the Coastal Barrier Resources System established by section 4.

**SEC. 4. THE COASTAL BARRIER RESOURCES SYSTEM.**

(a) **ESTABLISHMENT.**—(1) There is established the Coastal Barrier Resources System which shall consist of those undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States that are identified and generally depicted on the maps that are

entitled "Coastal Barrier Resources System", numbered A01 through T12, and dated September 30, 1982.

(2) Any person or persons or other entity owning or controlling land on an undeveloped coastal barrier, associated landform or any portion thereof not within the Coastal Barrier Resources System established under paragraph (1) may, within one year after the date of enactment of this Act, elect to have such land included within the Coastal Barrier Resources System. This election shall be made in compliance with regulations established for this purpose by the Secretary not later than one hundred and eighty days after the date of enactment of this Act; and, once made and filed in accordance with the laws regulating the sale or other transfer of land or other real property of the State in which such land is located, shall have the same force and effect as if such land had originally been included within the Coastal Barrier Resources System.

(b)(1) As soon as practicable after the enactment of this Act, the maps referred to in paragraph (1) of subsection (a) shall be filed with the Committees by the Secretary, and each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made. Each such map shall be on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and in other appropriate offices of the Service.

Maps, filing

Public inspection.

(2) As soon as practicable after the date of the enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to the chief executive officer of (A) each State and county or equivalent jurisdiction in which a system unit is located, (B) each State coastal zone management agency in those States which have a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) and in which a system unit is located, and (C) each appropriate Federal agency.

Copies, distribution.

(c) BOUNDARY MODIFICATIONS.—(1) Within 180 days after the date of enactment of this Act, the Secretary may make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units; except that, for system units within States which have, on the date of enactment, a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455)—

(A) each appropriate State coastal zone management agency may, within 90 days after the date of enactment of this Act, submit to the Secretary proposals for such minor and technical modifications; and

(B) the Secretary may, within 180 days after the date of enactment of this Act, make such minor and technical modifications to the boundaries of such system units.

(2) The Secretary shall, not less than 30 days prior to the effective date of any such boundary modification made under the authority of paragraph (1), submit written notice of such modification to (A) each of the Committees and (B) each of the appropriate officers referred to in paragraph (2) of subsection (b).

Notice submittal

(3) The Secretary shall conduct, at least once every five years, a review of the maps referred to in paragraph (1) of subsection (a) and make, in consultation with the appropriate officers referred to in

Review.

paragraph (2) of subsection (b), such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

(4) If, in the case of any minor and technical modification to the boundaries of system units made under the authority of this subsection, an appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1)(A), the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

16 USC 3504.

#### **SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.**

(a) Except as provided in section 6, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 4 on maps numbered S01 through S08 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

16 USC 3505.

#### **SEC. 6. EXCEPTIONS.**

(a) Notwithstanding section 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Coastal Barrier Resources System for—

(1) any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body;



(2) the maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements;

(3) the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities that are essential links in a larger network or system;

(4) military activities essential to national security;

(5) the construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto; and

(6) any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(A) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(B) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

16 USC 4601-4.

(D) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(F) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of subsection (a)(2), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before the date of the enactment of this Act.

#### SEC. 7. CERTIFICATION OF COMPLIANCE.

16 USC 3506.

The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

Submittal to Congress.

31 USC 1301 note.

16 USC 3507.

**SEC. 8. PRIORITY OF LAWS.**

Nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

16 USC 3508.

**SEC. 9. SEPARABILITY.**

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

16 USC 3509.

**SEC. 10. REPORTS TO CONGRESS.**

(a) **IN GENERAL.**—Before the close of the 3-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the Committees a report regarding the System.

(b) **CONSULTATION IN PREPARING REPORT.**—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which System units are located and with the coastal zone management agencies of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) **REPORT CONTENT.**—The report required under subsection (a) shall contain—

(1) recommendations for the conservation of the fish, wildlife, and other natural resources of the System based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System), and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units;

(3) a summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System; and

(4) an analysis of the effect, if any, that general revenue sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221) have had on undeveloped coastal barriers.

**SEC. 11. AMENDMENTS REGARDING FLOOD INSURANCE.**

95 Stat. 419.

(a) Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended to read as follows:

## “UNDEVELOPED COASTAL BARRIERS

“SEC. 1321. No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act. A federally insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section.”.

*Ante.* p 1654

(b) Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35) is repealed.

95 Stat. 418  
42 USC 4028  
note  
16 USC 3510

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Department of the Interior \$1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out sections 4 and 10.

Approved October 18, 1982.

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**LEGISLATIVE HISTORY—S. 1018 (H.R. 3252):**

HOUSE REPORTS: No. 97-841, pt. I accompanying H.R. 3252 (Comm. on Merchant Marine and Fisheries) and No. 97-928 (Comm. of Conference).

SENATE REPORT No. 97-419 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 23, considered and passed Senate

Sept. 28, H.R. 3252 considered and passed House; S. 1018, amended, passed in lieu.

Oct. 1, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 42 (1982):

Oct. 18, Presidential statement.

Public Law 97-349  
97th Congress

## Joint Resolution

Oct. 18, 1982

[S.J. Res. 261]

To designate "National Housing Week".

Whereas Congress has repeatedly reaffirmed the national goal of a decent home and a suitable living environment for every American family;

Whereas millions of Americans, particularly young families, are finding the opportunity for homeownership and decent housing out of their reach;

Whereas excessive and duplicative government regulations at the Federal, State, and local level have increased the cost of housing throughout the country;

Whereas the Nation's housing industry has been a major contributor to the national economy by creating jobs and generating revenue;

Whereas homeownership and decent housing promotes pride and contributes to the stability of the family in America; and

Whereas it is appropriate to reaffirm our Nation's historic commitment to housing as a national priority to preserve the American dream: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 24-31, 1982, be declared "National Housing Week" and that the President of the United States be authorized and requested to issue a proclamation calling upon all people of the United States to observe this week with appropriate ceremonies and activities.*

National  
Housing Week.

Approved October 18, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 261:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate and House.

Public Law 97-350  
97th Congress

An Act

To authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1982, 1983, and 1984, and withdraw certain lands within the Mount Baker-Snoqualmie National Forest from leasing under mineral and geothermal leasing laws.

Oct. 18, 1982

[S. 1210]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended—

Environmental Quality, Office and Council appropriation authorization, fiscal years 1982-1984. Mt. Baker-Snoqualmie National Forest, leasing exemption of certain lands.

(1) by striking out “; and” at the end of paragraph (a) and inserting in lieu thereof a period; and

(2) by adding at the end thereof the following:

“(c) \$44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.”

SEC. 2. (a) Subject to valid existing rights, all Federal lands within the area described in subsection (b) are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(b) The area referred to in subsection (a) shall comprise those lands which are owned by the United States within the Mount Baker-Snoqualmie National Forest and which lie within the physiographic boundaries of the watersheds of the Cedar River, the Green River, and the North and South Forks of the Tolt River. The boundaries of such areas shall be as depicted on maps entitled “Boundary Map, Mount Baker-Snoqualmie Proposed Withdrawals”, dated May 12, 1982. Such maps shall be on file and available for inspection in the offices of the United States Forest Service, Department of Agriculture.

Public inspection.

(c) The withdrawal described in subsection (a) shall not apply to any exchange carried out by the Secretary of Agriculture pursuant to the Alpine Lakes Area Management Act of 1976 (Public Law 94-357, 90 Stat. 905) nor shall such withdrawal apply to any Federal land exchange in process. For purposes of this Act an exchange is in process if publication of notice of the contemplated exchange has commenced by the date of enactment of this Act.

16 USC 1132 note.

(d) Additionally, the Secretary may dispose of land or interests therein within the area described in subsection (b) by exchange if the Secretary determines that the public will be well-served by the exchange: *Provided*, That the Secretary determines that the values of the watersheds as sources of drinking water are protected: *And provided further*, That such exchanges shall not alter, diminish, or abridge rights and obligations contained in State law and watershed management agreements between local government and landowners inside the watershed existing as of the effective date of this Act.

Approved October 18, 1982.

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**LEGISLATIVE HISTORY—S. 1210 (H.R. 1953):**

HOUSE REPORT No. 97-50 accompanying H.R. 1953 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 97-116 (Comm. on Environmental and Public Works).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 2, considered and passed Senate.

Sept. 21, 22, H.R. 1953 considered and passed House; proceedings vacated and S. 1210, amended, passed in lieu.

Vol. 128 (1982): June 14, Senate concurred in House amendments with an amendment.

Sept. 30, House agreed to Senate amendment with an amendment.

Oct. 1, Senate concurred in House amendments.

Public Law 97-351  
97th Congress

An Act

To amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

Oct. 18, 1982

[H.R. 5228]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Convention on  
the Physical  
Protection of  
Nuclear  
Material  
Implementation  
Act of 1982.  
18 USC 831 note.

SHORT TITLE

SECTION 1. This Act may be cited as the “Convention on the Physical Protection of Nuclear Material Implementation Act of 1982”.

IMPLEMENTATION OF CONVENTION AND PROHIBITION OF RELATED  
OFFENSES

SEC. 2. (a) Chapter 39 of title 18 of the United States Code is amended by inserting after the table of sections at the beginning of such chapter the following new section:

“§ 831. Prohibited transactions involving nuclear materials

18 USC 831

“(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

“(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

“(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or

“(B) knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

“(2) with intent to deprive another of nuclear material, knowingly—

“(A) takes and carries away nuclear material of another without authority;

“(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

“(C) uses fraud and thereby obtains nuclear material belonging to another;

“(3) knowingly—

“(A) uses force; or

“(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

“(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

“(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

“(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

“(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

“(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

“(b) The punishment for an offense under—

“(1) paragraphs (1) through (7) of subsection (a) of this section is—

“(A) a fine of not more than \$250,000; and

“(B) imprisonment—

“(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

“(ii) for not more than 20 years in any other case; and

“(2) paragraph (8) of subsection (a) of this section is—

“(A) a fine of not more than \$250,000; and

“(B) imprisonment—

“(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

“(ii) for not more than 10 years in any other case.

“(c) The circumstances referred to in subsection (a) of this section are that—

“(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301));

“(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

“(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

“(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates begin-



ning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

“(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel. 10 USC 371 *et seq.*

“(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if— 18 USC 1385.

“(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

“(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary’s discretion).

“(3) As used in this subsection, the term ‘emergency situation’ means a circumstance— “Emergency situation.”

“(A) that poses a serious threat to the interests of the United States; and

“(B) in which—

“(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

“(ii) civilian law enforcement personnel are not capable of enforcing the law.

“(4) Assistance under this section may include—

“(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

“(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

“(5) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

“(6) The Attorney General may delegate the Attorney General’s function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

“(f) As used in this section—

Definitions.

“(1) the term ‘nuclear material’ means material containing any—

“(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

“(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

“(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

“(D) uranium 233;

“(2) the term ‘international organization’ means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22

U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

“(3) the term ‘serious bodily injury’ means bodily injury which involves—

“(A) a substantial risk of death;

“(B) extreme physical pain;

“(C) protracted and obvious disfigurement; or

“(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

“(4) the term ‘bodily injury’ means—

“(A) a cut, abrasion, bruise, burn, or disfigurement;

“(B) physical pain;

“(C) illness;

“(D) impairment of a function of a bodily member, organ, or mental faculty; or

“(E) any other injury to the body, no matter how temporary.”.

(b) The table of sections for chapter 39 of title 18 of the United States Code is amended by striking out the items relating to sections 831 through 835 and inserting in lieu thereof the following:

“831. Prohibited transactions involving nuclear materials.”.

**AMENDMENT TO DEFINITION OF INTERNATIONAL ORGANIZATIONS USED  
IN DEFINING OFFENSES AGAINST INTERNATIONALLY PROTECTED PER-  
SONS**

**SEC. 3.** Section 1116(b)(5) of title 18 of the United States Code is amended by inserting before the period the following: “or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs”.

Approved October 18, 1982.

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**LEGISLATIVE HISTORY—H.R. 5228 (S. 1446):**

HOUSE REPORT No. 97-624 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, 20, considered and passed House.

Sept. 14, considered and passed Senate, amended.

Sept. 28, House concurred in Senate amendment No. 1; disagreed to certain amendments; concurred in others with amendments.

Oct. 1, Senate concurred in House amendments and receded from its disagreements.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 42 (1982):

Oct. 19, Presidential statement.

Public Law 97-352  
97th Congress

An Act

To amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such Act, and for other purposes.

Oct 18, 1982  
[H.R. 6865]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(5)), is amended by amending the proviso to read as follows: “*Provided*, That any commission merchant, dealer, or broker who has violated—

Perishable  
Agricultural  
Commodities  
Act, 1930,  
amendment.

“(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

“(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed \$2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited in the Treasury of the United States as miscellaneous receipts;”.

SEC. 2. Section 6(e) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(e)), is amended by inserting “or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned,” after “nonresident of the United States,”.

SEC. 3. The amendment made by section 2 shall not apply with respect to complaints made under section 6(e) of the Perishable Agricultural Commodities Act, 1930, before the date of enactment of this Act.

Effective date  
7 USC 499f note.

Approved October 18, 1982.

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LEGISLATIVE HISTORY—H.R. 6865:

HOUSE REPORT No. 97-876 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982)  
Sept. 28, considered and passed House  
Oct. 1, considered and passed Senate.

Public Law 97-353  
97th Congress

Joint Resolution

Oct. 19, 1982

[S.J. Res. 257]

To designate the month of November 1982, as "National Diabetes Month".

Whereas diabetes kills more Americans than all other diseases except cancer and cardiovascular diseases;

Whereas eleven million Americans suffer from diabetes and five million seven hundred thousand of such Americans are not aware of their illness;

Whereas \$9,700,000,000 annually are used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin-dependent diabetes may be preventable through greater public understanding, awareness, and education; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

National  
Diabetes  
Month.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the month of November 1982 is designated as "National Diabetes Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved October 19, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 257:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate and House.

Public Law 97-354  
97th Congress

## An Act

To revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations).

Oct. 19, 1982  
[H.R. 6055]*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Subchapter S Revision Act of 1982”.(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.Subchapter S  
Revision Act of  
1982.  
26 USC 1 note26 USC 1 *et seq.*

## SEC. 2. AMENDMENT OF SUBCHAPTER S.

Subchapter S of chapter 1 is amended to read as follows:

**“Subchapter S—Tax Treatment of S Corporations and Their Shareholders**

“Part I. In general.

“Part II. Tax treatment of shareholders.

“Part III. Special rules.

“Part IV. Definitions; miscellaneous.

**“PART I—IN GENERAL**

“Sec. 1361. S corporation defined.

“Sec. 1362. Election; revocation; termination.

“Sec. 1363. Effect of election on corporation.

**“SEC. 1361. S CORPORATION DEFINED.**

26 USC 1361.

**“(a) S CORPORATION DEFINED.—****“(1) IN GENERAL.**—For purposes of this title, the term ‘S corporation’ means, with respect to any taxable year, a small business corporation for which an election under section 1362(a) is in effect for such year.**“(2) C CORPORATION.**—For purposes of this title, the term ‘C corporation’ means, with respect to any taxable year, a corporation which is not an S corporation for such year.**“(b) SMALL BUSINESS CORPORATION.—****“(1) IN GENERAL.**—For purposes of this subchapter, the term ‘small business corporation’ means a domestic corporation which is not an ineligible corporation and which does not—**“(A) have more than 35 shareholders,****“(B) have as a shareholder a person (other than an estate and other than a trust described in subsection (c)(2)) who is not an individual,****“(C) have a nonresident alien as a shareholder, and**

“(D) have more than 1 class of stock.

“(2) **INELIGIBLE CORPORATION DEFINED.**—For purposes of paragraph (1), the term ‘ineligible corporation’ means any corporation which is—

“(A) a member of an affiliated group (determined under section 1504 without regard to the exceptions contained in subsection (b) thereof),

“(B) a financial institution to which section 585 or 593 applies,

26 USC 801.

“(C) an insurance company subject to tax under subchapter L,

“(D) a corporation to which an election under section 936 applies, or

“(E) a DISC or former DISC.

“(c) **SPECIAL RULES FOR APPLYING SUBSECTION (b).**—

“(1) **HUSBAND AND WIFE TREATED AS 1 SHAREHOLDER.**—For purposes of subsection (b)(1)(A), a husband and wife (and their estates) shall be treated as 1 shareholder.

“(2) **CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.**—

“(A) **IN GENERAL.**—For purposes of subsection (b)(1)(B), the following trusts may be shareholders:

26 USC 671.

“(i) A trust all of which is treated (under subpart E of part I of subchapter J of this chapter) as owned by an individual who is a citizen or resident of the United States.

“(ii) A trust which was described in clause (i) immediately before the death of the deemed owner and which continues in existence after such death, but only for the 60-day period beginning on the day of the deemed owner’s death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the deemed owner, the preceding sentence shall be applied by substituting ‘2-year period’ for ‘60-day period’.

“(iii) A trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

“(iv) A trust created primarily to exercise the voting power of stock transferred to it.

This subparagraph shall not apply to any foreign trust.

“(B) **TREATMENT AS SHAREHOLDERS.**—For purposes of subsection (b)(1)—

“(i) In the case of a trust described in clause (i) of subparagraph (A), the deemed owner shall be treated as the shareholder.

“(ii) In the case of a trust described in clause (ii) of subparagraph (A), the estate of the deemed owner shall be treated as the shareholder.

“(iii) In the case of a trust described in clause (iii) of subparagraph (A), the estate of the testator shall be treated as the shareholder.

“(iv) In the case of a trust described in clause (iv) of subparagraph (A), each beneficiary of the trust shall be treated as a shareholder.

“(3) **ESTATE OF INDIVIDUAL IN BANKRUPTCY MAY BE SHAREHOLDER.**—For purposes of subsection (b)(1)(B), the term ‘estate’

includes the estate of an individual in a case under title 11 of the United States Code.

11 USC 101 *et seq.*

“(4) **DIFFERENCES IN COMMON STOCK VOTING RIGHTS DISREGARDED.**—For purposes of subsection (b)(1)(D), a corporation shall not be treated as having more than 1 class of stock solely because there are differences in voting rights among the shares of common stock.

“(5) **STRAIGHT DEBT SAFE HARBOR.**—

“(A) **IN GENERAL.**—For purposes of subsection (b)(1)(D), straight debt shall not be treated as a second class of stock.

“(B) **STRAIGHT DEBT DEFINED.**—For purposes of this paragraph, the term ‘straight debt’ means any written unconditional promise to pay on demand or on a specified date a sum certain in money if—

“(i) the interest rate (and interest payment dates) are not contingent on profits, the borrower’s discretion, or similar factors,

“(ii) there is no convertibility (directly or indirectly) into stock, and

“(iii) the creditor is an individual (other than a non-resident alien), an estate, or a trust described in paragraph (2).

“(C) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to provide for the proper treatment of straight debt under this subchapter and for the coordination of such treatment with other provisions of this title.

“(6) **OWNERSHIP OF STOCK IN CERTAIN INACTIVE CORPORATIONS.**—For purposes of subsection (b)(2)(A), a corporation shall not be treated as a member of an affiliated group at any time during any taxable year by reason of the ownership of stock in another corporation if such other corporation—

“(A) has not begun business at any time on or after the date of its incorporation and before the close of such taxable year, and

“(B) does not have taxable income for the period included within such taxable year.

“(d) **SPECIAL RULE FOR QUALIFIED SUBCHAPTER S TRUST.**—

“(1) **IN GENERAL.**—In the case of a qualified subchapter S trust with respect to which a beneficiary makes an election under paragraph (2)—

“(A) such trust shall be treated as a trust described in subsection (c)(2)(A)(i), and

“(B) for purposes of section 678(a), the beneficiary of such trust shall be treated as the owner of that portion of the trust which consists of stock in an S corporation with respect to which the election under paragraph (2) is made.

“(2) **ELECTION.**—

“(A) **IN GENERAL.**—A beneficiary of a qualified subchapter S trust (or his legal representative) may elect to have this subsection apply.

“(B) **MANNER AND TIME OF ELECTION.**—

“(i) **SEPARATE ELECTION WITH RESPECT TO EACH S CORPORATION.**—An election under this paragraph shall be made separately with respect to each S corporation the stock of which is held by the trust.

“(ii) ELECTIONS WITH RESPECT TO SUCCESSIVE INCOME BENEFICIARIES.—If there is an election under this paragraph with respect to any beneficiary, an election under this paragraph shall be treated as made by each successive beneficiary unless such beneficiary affirmatively refuses to consent to such election.

“(iii) TIME, MANNER, AND FORM OF ELECTION.—Any election, or refusal, under this paragraph shall be made in such manner and form, and at such time, as the Secretary may prescribe.

“(C) ELECTION IRREVOCABLE.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

“(D) GRACE PERIOD.—An election under this paragraph shall be effective up to 60 days before the date of the election.

“(3) QUALIFIED SUBCHAPTER S TRUST.—For purposes of this subsection, the term ‘qualified subchapter S trust’ means a trust—

“(A) which owns stock in 1 or more S corporations,

“(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States, and

“(C) the terms of which require that—

“(i) during the life of the current income beneficiary there shall be only 1 income beneficiary of the trust,

“(ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary,

“(iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary’s death or the termination of the trust, and

“(iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary.

“(4) TRUST CEASING TO BE QUALIFIED.—If a qualified subchapter S trust ceases to meet any requirement under paragraph (3), the provisions of this subsection shall not apply to such trust as of the date it ceases to meet such requirements.

26 USC 1362.

**“SEC. 1362. ELECTION; REVOCATION; TERMINATION.**

**“(a) ELECTION.—**

“(1) IN GENERAL.—Except as provided in subsection (g), a small business corporation may elect, in accordance with the provisions of this section, to be an S corporation.

“(2) ALL SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this subsection shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.

**“(b) WHEN MADE.—**

“(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

“(A) at any time during the preceding taxable year, or

“(B) at any time during the taxable year and on or before the 15th day of the 3d month of the taxable year.



**"(2) CERTAIN ELECTIONS MADE DURING 1ST 2½ MONTHS TREATED AS MADE FOR NEXT TAXABLE YEAR.—If—**

**"(A)** an election under subsection (a) is made for any taxable year during such year and on or before the 15th day of the 3d month of such year, but

**"(B)** either—

**"(i)** on 1 or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section 1361, or

*Ante*, p. 1669.

**"(ii)** 1 or more of the persons who held stock in the corporation during such taxable year and before the election was made did not consent to the election, then such election shall be treated as made for the following taxable year.

**"(3) ELECTION MADE AFTER 1ST 2½ MONTHS TREATED AS MADE FOR FOLLOWING TAXABLE YEAR.—If—**

**"(A)** a small business corporation makes an election under subsection (a) for any taxable year, and

**"(B)** such election is made after the 15th day of the 3d month of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

**"(c) YEARS FOR WHICH EFFECTIVE.—**An election under subsection (a) shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, until such election is terminated under subsection (d).

**"(d) TERMINATION.—**

**"(1) BY REVOCATION.—**

**"(A) IN GENERAL.—**An election under subsection (a) may be terminated by revocation.

**"(B) MORE THAN ONE-HALF OF SHARES MUST CONSENT TO REVOCATION.—**An election may be revoked only if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made consent to the revocation.

**"(C) WHEN EFFECTIVE.—**Except as provided in subparagraph (D)—

**"(i)** a revocation made during the taxable year and on or before the 15th day of the 3d month thereof shall be effective on the 1st day of such taxable year, and

**"(ii)** a revocation made during the taxable year but after such 15th day shall be effective on the 1st day of the following taxable year.

**"(D) REVOCATION MAY SPECIFY PROSPECTIVE DATE.—**If the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified.

**"(2) BY CORPORATION CEASING TO BE SMALL BUSINESS CORPORATION.—**

**"(A) IN GENERAL.—**An election under subsection (a) shall be terminated whenever (at any time on or after the 1st day of the 1st taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation.

**“(B) WHEN EFFECTIVE.**—Any termination under this paragraph shall be effective on and after the date of cessation.  
**“(3) WHERE PASSIVE INVESTMENT INCOME EXCEEDS 25 PERCENT OF GROSS RECEIPTS FOR 3 CONSECUTIVE TAXABLE YEARS AND CORPORATION HAS SUBCHAPTER C EARNINGS AND PROFITS.**—

**“(A) TERMINATION.**—

26 USC 301.

**“(i) IN GENERAL.**—An election under subsection (a) shall be terminated whenever the corporation—

**“(I) has subchapter C earnings and profits at the close of each of 3 consecutive taxable years, and**

**“(II) has gross receipts for each of such taxable years more than 25 percent of which are passive investment income.**

**“(ii) WHEN EFFECTIVE.**—Any termination under this paragraph shall be effective on and after the first day of the first taxable year beginning after the third consecutive taxable year referred to in clause (i).

**“(iii) YEARS TAKEN INTO ACCOUNT.**—A prior taxable year shall not be taken into account under clause (i) unless—

**“(I) such taxable year began after December 31, 1981, and**

**“(II) the corporation was an S corporation for such taxable year.**

**“(B) SUBCHAPTER C EARNINGS AND PROFITS.**—For purposes of subparagraph (A), the term ‘subchapter C earnings and profits’ means earnings and profits of any corporation for any taxable year with respect to which an election under section 1362(a) (or under section 1372 of prior law) was not in effect.

*Ante*, p. 1672.

**“(C) GROSS RECEIPTS FROM SALES OF CAPITAL ASSETS (OTHER THAN STOCK AND SECURITIES).**—For purposes of this paragraph, in the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom.

**“(D) PASSIVE INVESTMENT INCOME DEFINED.**—For purposes of this paragraph—

**“(i) IN GENERAL.**—Except as otherwise provided in this subparagraph, the term ‘passive investment income’ means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom).

**“(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.**—The term ‘passive investment income’ shall not include interest on any obligation acquired in the ordinary course of the corporation’s trade or business from its sale of property described in section 1221(1).

**“(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.**—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term ‘passive investment income’ shall not include gross receipts for the taxable year which are derived directly

from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

“(iv) **TREATMENT OF CERTAIN LIQUIDATIONS.**—Gross receipts derived from sales or exchanges of stock or securities shall not include amounts received by an S corporation which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock where the S corporation owned more than 50 percent of each class of stock of the liquidating corporation.

“(e) **TREATMENT OF S TERMINATION YEAR.**—

“(1) **IN GENERAL.**—In the case of an S termination year, for purposes of this title—

“(A) **S SHORT YEAR.**—The portion of such year ending before the 1st day for which the termination is effective shall be treated as a short taxable year for which the corporation is an S corporation.

“(B) **C SHORT YEAR.**—The portion of such year beginning on such 1st day shall be treated as a short taxable year for which the corporation is a C corporation.

“(2) **PRO RATA ALLOCATION.**—Except as provided in paragraph (3), the determination of which items are to be taken into account for each of the short taxable years referred to in paragraph (1) shall be made—

“(A) first by determining for the S termination year—

“(i) the amount of each of the items of income, loss, deduction, or credit described in section 1366(a)(1)(A), and

“(ii) the amount of the nonseparately computed income or loss, and

“(B) then by assigning an equal portion of each amount determined under subparagraph (A) to each day of the S termination year.

“(3) **ELECTION TO HAVE ITEMS ASSIGNED TO EACH SHORT TAXABLE YEAR UNDER NORMAL TAX ACCOUNTING RULES.**—

“(A) **IN GENERAL.**—A corporation may elect to have paragraph (2) not apply.

“(B) **ALL SHAREHOLDERS MUST CONSENT TO ELECTION.**—An election under this paragraph shall be valid only if all persons who are shareholders in the corporation at any time during the S termination year consent to such election.

“(4) **S TERMINATION YEAR.**—For purposes of this subsection, the term ‘S termination year’ means any taxable year of a corporation (determined without regard to this subsection) in which a termination of an election made under subsection (a) takes effect (other than on the 1st day thereof).

“(5) **TAX FOR C SHORT YEAR DETERMINED ON ANNUALIZED BASIS.**—

“(A) **IN GENERAL.**—The taxable income for the short year described in subparagraph (B) of paragraph (1) shall be placed on an annual basis by multiplying the taxable income for such short year by the number of days in the S termination year and by dividing the result by the number of days in the short year. The tax shall be the same part of the tax computed on the annual basis as the number of

*Post*, p. 1677.

days in such short year is of the number of days in the S termination year.

“(B) SECTION 443(d)(2) TO APPLY.—Subsection (d)(2) of section 443 shall apply to the short taxable year described in subparagraph (B) of paragraph (1).

“(6) OTHER SPECIAL RULES.—For purposes of this title—

“(A) SHORT YEARS TREATED AS 1 YEAR FOR CARRYOVER PURPOSES.—The short taxable year described in subparagraph (A) of paragraph (1) shall not be taken into account for purposes of determining the number of taxable years to which any item may be carried back or carried forward by the corporation.

“(B) DUE DATE FOR S YEAR.—The due date for filing the return for the short taxable year described in subparagraph (A) of paragraph (1) shall be the same as the due date for filing the return for the short taxable year described in subparagraph (B) of paragraph (1) (including extensions thereof).

“(f) INADVERTENT TERMINATIONS.—If—

“(1) an election under subsection (a) by any corporation was terminated under paragraph (2) or (3) of subsection (d),

“(2) the Secretary determines that the termination was inadvertent,

“(3) no later than a reasonable period of time after discovery of the event resulting in such termination, steps were taken so that the corporation is once more a small business corporation, and

“(4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the terminating event, such corporation shall be treated as continuing to be an S corporation during the period specified by the Secretary.

“(g) ELECTION AFTER TERMINATION.—If a small business corporation has made an election under subsection (a) and if such election has been terminated under subsection (d), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year before its 5th taxable year which begins after the 1st taxable year for which such termination is effective, unless the Secretary consents to such election.

26 USC 1363.

“SEC. 1363. EFFECT OF ELECTION ON CORPORATION.

“(a) GENERAL RULE.—Except as otherwise provided in this subchapter and in section 58(d), an S corporation shall not be subject to the taxes imposed by this chapter.

“(b) COMPUTATION OF CORPORATION’S TAXABLE INCOME.—The taxable income of an S corporation shall be computed in the same manner as in the case of an individual, except that—

“(1) the items described in section 1366(a)(1)(A) shall be separately stated,

“(2) the deductions referred to in section 703(a)(2) shall not be allowed to the corporation, and

“(3) section 248 shall apply.

“(c) ELECTIONS OF THE S CORPORATION.—

*Ante*, p. 1677.

“(1) **IN GENERAL.**—Except as provided in paragraph (2), any election affecting the computation of items derived from an S corporation shall be made by the corporation.

“(2) **EXCEPTIONS.**—In the case of an S corporation, elections under the following provisions shall be made by each shareholder separately—

“(A) subsection (b)(5) or (d)(4) of section 108 (relating to income from discharge of indebtedness),

“(B) section 163(d) (relating to limitation on interest on investment indebtedness),

“(C) section 617 (relating to deduction and recapture of certain mining exploration expenditures), and

“(D) section 901 (relating to taxes of foreign countries and possessions of the United States).

“(d) **DISTRIBUTIONS OF APPRECIATED PROPERTY.**—If—

“(1) an S corporation makes a distribution of property (other than an obligation of such corporation) with respect to its stock, and

“(2) the fair market value of such property exceeds its adjusted basis in the hands of the S corporation, then, notwithstanding any other provision of this subtitle, gain shall be recognized to the S corporation on the distribution in the same manner as if it had sold such property to the distributee at its fair market value.

## “PART II—TAX TREATMENT OF SHAREHOLDERS

“Sec. 1366. Pass-thru of items to shareholders.

“Sec. 1367. Adjustments to basis of stock of shareholders, etc.

“Sec. 1368. Distributions.

### “SEC. 1366. PASS-THRU OF ITEMS TO SHAREHOLDERS.

26 USC 1366.

“(a) **DETERMINATION OF SHAREHOLDER'S TAX LIABILITY.**—

“(1) **IN GENERAL.**—In determining the tax under this chapter of a shareholder for the shareholder's taxable year in which the taxable year of the S corporation ends (or for the final taxable year of a shareholder who dies before the end of the corporation's taxable year), there shall be taken into account the shareholder's pro rata share of the corporation's—

“(A) items of income (including tax-exempt income), loss, deduction, or credit the separate treatment of which could affect the liability for tax of any shareholder, and

“(B) nonseparately computed income or loss.

For purposes of the preceding sentence, the items referred to in subparagraph (A) shall include amounts described in paragraph (4) or (6) of section 702(a).

“(2) **NONSEPARATELY COMPUTED INCOME OR LOSS DEFINED.**—For purposes of this subchapter, the term ‘nonseparately computed income or loss’ means gross income minus the deductions allowed to the corporation under this chapter, determined by excluding all items described in paragraph (1)(A).

“(b) **CHARACTER PASSED THRU.**—The character of any item included in a shareholder's pro rata share under paragraph (1) of subsection (a) shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

“(c) GROSS INCOME OF A SHAREHOLDER.—In any case where it is necessary to determine the gross income of a shareholder for purposes of this title, such gross income shall include the shareholder’s pro rata share of the gross income of the corporation.

“(d) SPECIAL RULES FOR LOSSES AND DEDUCTIONS.—

“(1) CANNOT EXCEED SHAREHOLDER’S BASIS IN STOCK AND DEBT.—The aggregate amount of losses and deductions taken into account by a shareholder under subsection (a) for any taxable year shall not exceed the sum of—

“(A) the adjusted basis of the shareholder’s stock in the S corporation (determined with regard to paragraph (1) of section 1367(a) for the taxable year), and

“(B) the shareholder’s adjusted basis of any indebtedness of the S corporation to the shareholder (determined without regard to any adjustment under paragraph (2) of section 1367(b) for the taxable year).

“(2) INDEFINITE CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—Any loss or deduction which is disallowed for any taxable year by reason of paragraph (1) shall be treated as incurred by the corporation in the succeeding taxable year with respect to that shareholder.

“(3) CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS TO POST-TERMINATION TRANSITION PERIOD.—

“(A) IN GENERAL.—If for the last taxable year of a corporation for which it was an S corporation a loss or deduction was disallowed by reason of paragraph (1), such loss or deduction shall be treated as incurred by the shareholder on the last day of any post-termination transition period.

“(B) CANNOT EXCEED SHAREHOLDER’S BASIS IN STOCK.—The aggregate amount of losses and deductions taken into account by a shareholder under subparagraph (A) shall not exceed the adjusted basis of the shareholder’s stock in the corporation (determined at the close of the last day of the post-termination transition period and without regard to this paragraph).

“(C) ADJUSTMENT IN BASIS OF STOCK.—The shareholder’s basis in the stock of the corporation shall be reduced by the amount allowed as a deduction by reason of this paragraph.

“(e) TREATMENT OF FAMILY GROUP.—If an individual who is a member of the family (within the meaning of section 704(e)(3)) of one or more shareholders of an S corporation renders services for the corporation or furnishes capital to the corporation without receiving reasonable compensation therefor, the Secretary shall make such adjustments in the items taken into account by such individual and such shareholders as may be necessary in order to reflect the value of such services or capital.

“(f) SPECIAL RULES.—

“(1) SUBSECTION (a) NOT TO APPLY TO CREDIT ALLOWABLE UNDER SECTION 39.—Subsection (a) shall not apply with respect to any credit allowable under section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil).

“(2) REDUCTION IN PASS-THRU FOR TAX IMPOSED ON CAPITAL GAIN.—If any tax is imposed under section 56 or 1374 for any taxable year on an S corporation, for purposes of subsection (a)—

“(A) the amount of the corporation’s long-term capital gains for the taxable year shall be reduced by the amount of such tax, and

“(B) if the amount of such tax exceeds the amount of such long-term capital gains, the corporation’s gains from sales or exchanges of property described in section 1231 shall be reduced by the amount of such excess.

For purposes of the preceding sentence, the term ‘long-term capital gain’ shall not include any gain from the sale or exchange of property described in section 1231.

“Long-term capital gain.”

“(3) REDUCTION IN PASS-THRU FOR TAX IMPOSED ON EXCESS NET PASSIVE INCOME.—If any tax is imposed under section 1375 for any taxable year on an S corporation, for purposes of subsection (a), each item of passive investment income shall be reduced by an amount which bears the same ratio to the amount of such tax as—

Post, p 1684.

“(A) the amount of such item, bears to

“(B) the total passive investment income for the taxable year.

“(g) CROSS REFERENCE.—

“For rules relating to procedures for determining the tax treatment of subchapter S items, see subchapter D of chapter 63.

#### “SEC. 1367. ADJUSTMENTS TO BASIS OF STOCK OF SHAREHOLDERS, ETC.

26 USC 1367.

“(a) GENERAL RULE.—

“(1) INCREASES IN BASIS.—The basis of each shareholder’s stock in an S corporation shall be increased for any period by the sum of the following items determined with respect to that shareholder for such period:

“(A) the items of income described in subparagraph (A) of section 1366(a)(1),

Ante, p. 1677.

“(B) any nonseparately computed income determined under subparagraph (B) of section 1366(a)(1), and

“(C) the excess of the deductions for depletion over the basis of the property subject to depletion.

“(2) DECREASES IN BASIS.—The basis of each shareholder’s stock in an S corporation shall be decreased for any period (but not below zero) by the sum of the following items determined with respect to the shareholder for such period:

“(A) distributions by the corporation which were not includible in the income of the shareholder by reason of section 1368,

“(B) the items of loss and deduction described in subparagraph (A) of section 1366(a)(1),

“(C) any nonseparately computed loss determined under subparagraph (B) of section 1366(a)(1),

“(D) any expense of the corporation not deductible in computing its taxable income and not properly chargeable to capital account, and

“(E) the amount of the shareholder’s deduction for depletion under section 611 with respect to oil and gas wells.

“(b) SPECIAL RULES.—

“(1) INCOME ITEMS.—An amount which is required to be included in the gross income of a shareholder and shown on his return shall be taken into account under subparagraph (A) or (B) of subsection (a)(1) only to the extent such amount is included in the shareholder’s gross income on his return, in-

creased or decreased by any adjustment of such amount in a redetermination of the shareholder's tax liability.

**"(2) ADJUSTMENTS IN BASIS OF INDEBTEDNESS.—**

**"(A) REDUCTION OF BASIS.—**If for any taxable year the amounts specified in subparagraphs (B), (C), (D), and (E) of subsection (a)(2) exceed the amount which reduces the shareholder's basis to zero, such excess shall be applied to reduce (but not below zero) the shareholder's basis in any indebtedness of the S corporation to the shareholder.

**"(B) RESTORATION OF BASIS.—**If for any taxable year there is a reduction under subparagraph (A) in the shareholder's basis in the indebtedness of an S corporation to a shareholder, any net increase (after the application of paragraphs (1) and (2) of subsection (a)) for any subsequent taxable year shall be applied to restore such reduction in basis before any of it may be used to increase the shareholder's basis in the stock of the S corporation.

*Ante*, p. 1677.

**"(3) COORDINATION WITH SECTION 165(g).—**This section and section 1366 shall be applied before the application of section 165(g) to any taxable year of the shareholder or the corporation in which the stock becomes worthless.

26 USC 1368.

**"SEC. 1368. DISTRIBUTIONS.**

**"(a) GENERAL RULE.—**A distribution of property made by an S corporation with respect to its stock to which (but for this subsection) section 301(c) would apply shall be treated in the manner provided in subsection (b) or (c), whichever applies.

**"(b) S CORPORATION HAVING NO EARNINGS AND PROFITS.—**In the case of a distribution described in subsection (a) by an S corporation which has no accumulated earnings and profits—

**"(1) AMOUNT APPLIED AGAINST BASIS.—**The distribution shall not be included in gross income to the extent that it does not exceed the adjusted basis of the stock.

**"(2) AMOUNT IN EXCESS OF BASIS.—**If the amount of the distribution exceeds the adjusted basis of the stock, such excess shall be treated as gain from the sale or exchange of property.

**"(c) S CORPORATION HAVING EARNINGS AND PROFITS.—**In the case of a distribution described in subsection (a) by an S corporation which has accumulated earnings and profits—

**"(1) ACCUMULATED ADJUSTMENTS ACCOUNT.—**That portion of the distribution which does not exceed the accumulated adjustments account shall be treated in the manner provided by subsection (b).

**"(2) DIVIDEND.—**That portion of the distribution which remains after the application of paragraph (1) shall be treated as a dividend to the extent it does not exceed the accumulated earnings and profits of the S corporation.

**"(3) TREATMENT OF REMAINDER.—**Any portion of the distribution remaining after the application of paragraph (2) of this subsection shall be treated in the manner provided by subsection (b).

**"(d) CERTAIN ADJUSTMENTS TAKEN INTO ACCOUNT.—**Subsections (b) and (c) shall be applied by taking into account (to the extent proper)—

*Ante*, p. 1679.

**"(1) the adjustments to the basis of the shareholder's stock described in section 1367, and**



“(2) the adjustments to the accumulated adjustments account which are required by subsection (e)(1).

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ACCUMULATED ADJUSTMENTS ACCOUNT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘accumulated adjustments account’ means an account of the S corporation which is adjusted for the S period in a manner similar to the adjustments under section 1367 (except that no adjustment shall be made for income which is exempt from tax under this title and no adjustment shall be made for any expense not deductible in computing the corporation’s taxable income and not properly chargeable to capital account).

*Ante*, p. 1679.

“(B) AMOUNT OF ADJUSTMENT IN THE CASE OF REDEMPTIONS.—In the case of any redemption which is treated as an exchange under section 302(a) or 303(a), the adjustment in the accumulated adjustments account shall be an amount which bears the same ratio to the balance in such account as the number of shares redeemed in such redemption bears to the number of shares of stock in the corporation immediately before such redemption.

“(2) S PERIOD.—The term ‘S period’ means the most recent continuous period during which the corporation has been an S corporation. Such period shall not include any taxable year beginning before January 1, 1983.

### “PART III—SPECIAL RULES

“Sec. 1371. Coordination with subchapter C.

“Sec. 1372. Partnership rules to apply for fringe benefit purposes.

“Sec. 1373. Foreign income.

“Sec. 1374. Tax imposed on certain capital gains.

“Sec. 1375. Tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts.

#### “SEC. 1371. COORDINATION WITH SUBCHAPTER C.

26 USC 1371.

“(a) APPLICATION OF SUBCHAPTER C RULES.—

“(1) IN GENERAL.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.

“(2) S CORPORATION AS SHAREHOLDER TREATED LIKE INDIVIDUAL.—For purposes of subchapter C, an S corporation in its capacity as a shareholder of another corporation shall be treated as an individual.

“(b) NO CARRYOVER BETWEEN C YEAR AND S YEAR.—

“(1) FROM C YEAR TO S YEAR.—No carryforward, and no carryback, arising for a taxable year for which a corporation is a C corporation may be carried to a taxable year for which such corporation is an S corporation.

“(2) NO CARRYOVER FROM S YEAR.—No carryforward, and no carryback, shall arise at the corporate level for a taxable year for which a corporation is an S corporation.

“(3) TREATMENT OF S YEAR AS ELAPSED YEAR.—Nothing in paragraphs (1) and (2) shall prevent treating a taxable year for which a corporation is an S corporation as a taxable year for

purposes of determining the number of taxable years to which an item may be carried back or carried forward.

**“(c) EARNINGS AND PROFITS.—**

**“(1) IN GENERAL.—**Except as provided in paragraphs (2) and (3), no adjustment shall be made to the earnings and profits of an S corporation.

26 USC 301.

**“(2) ADJUSTMENTS FOR REDEMPTIONS, LIQUIDATIONS, REORGANIZATIONS, DIVISIVES, ETC.—**In the case of any transaction involving the application of subchapter C to any S corporation, proper adjustment to any accumulated earnings and profits of the corporation shall be made.

*Ante*, p. 1680.

**“(3) ADJUSTMENTS IN CASE OF DISTRIBUTIONS TREATED AS DIVIDENDS UNDER SECTION 1368(c)(2).—**Paragraph (1) shall not apply with respect to that portion of a distribution which is treated as a dividend under section 1368(c)(2).

**“(d) COORDINATION WITH INVESTMENT CREDIT RECAPTURE.—**

*Ante*, p. 1672.

**“(1) NO RECAPTURE BY REASON OF ELECTION.—**Any election under section 1362 shall be treated as a mere change in the form of conducting a trade or business for purposes of the second sentence of section 47(b).

**“(2) CORPORATION CONTINUES TO BE LIABLE.—**Notwithstanding an election under section 1362, an S corporation shall continue to be liable for any increase in tax under section 47 attributable to credits allowed for taxable years for which such corporation was not an S corporation.

**“(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD.—**Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account.

26 USC 1372.

**“SEC. 1372. PARTNERSHIP RULES TO APPLY FOR FRINGE BENEFIT PURPOSES.**

**“(a) GENERAL RULE.—**For purposes of applying the provisions of this subtitle which relate to employee fringe benefits—

**“(1) the S corporation shall be treated as a partnership, and**

**“(2) any 2-percent shareholder of the S corporation shall be treated as a partner of such partnership.**

**“(b) 2-PERCENT SHAREHOLDER DEFINED.—**For purposes of this section, the term ‘2-percent shareholder’ means any person who owns (or is considered as owning within the meaning of section 318) on any day during the taxable year of the S corporation more than 2 percent of the outstanding stock of such corporation or stock possessing more than 2 percent of the total combined voting power of all stock of such corporation.

26 USC 1373.

**“SEC. 1373. FOREIGN INCOME.**

26 USC 901, 951.

26 USC 999.

**“(a) S CORPORATION TREATED AS PARTNERSHIP, ETC.—**For purposes of subparts A and F of part III, and part V, of subchapter N (relating to income from sources without the United States)—

**“(1) an S corporation shall be treated as a partnership, and**

**“(2) the shareholders of such corporation shall be treated as partners of such partnership.**

**“(b) RECAPTURE OF OVERALL FOREIGN LOSS.—**For purposes of section 904(f) (relating to recapture of overall foreign loss), the making

or termination of an election to be treated as an S corporation shall be treated as a disposition of the business.

**"SEC. 1374. TAX IMPOSED ON CERTAIN CAPITAL GAINS.**

26 USC 1374.

**"(a) GENERAL RULE.—**If for a taxable year of an S corporation—

**"(1)** the net capital gain of such corporation exceeds \$25,000, and exceeds 50 percent of its taxable income for such year, and

**"(2)** the taxable income of such corporation for such year exceeds \$25,000,

there is hereby imposed a tax (computed under subsection (b)) on the income of such corporation.

**"(b) AMOUNT OF TAX.—**The tax imposed by subsection (a) shall be the lower of—

**"(1)** an amount equal to the tax, determined as provided in section 1201(a), on the amount by which the net capital gain of the corporation for the taxable year exceeds \$25,000, or

**"(2)** an amount equal to the tax which would be imposed by section 11 on the taxable income of the corporation for the taxable year if the corporation were not an S corporation.

No credit shall be allowable under part IV of subchapter A of this chapter (other than under section 39) against the tax imposed by subsection (a).

26 USC 31

**"(c) EXCEPTIONS.—**

**"(1) IN GENERAL.—**Subsection (a) shall not apply to an S corporation for any taxable year if the election under section 1362(a) which is in effect with respect to such corporation for such taxable year has been in effect for the 3 immediately preceding taxable years.

*Ante*, p. 1672.

**"(2) NEW CORPORATIONS.—**Subsection (a) shall not apply to an S corporation if—

**"(A)** it (and any predecessor corporation) has been in existence for less than 4 taxable years, and

**"(B)** an election under section 1362(a) has been in effect with respect to such corporation for each of its taxable years.

**"(3) PROPERTY WITH SUBSTITUTED BASIS.—**If—

**"(A)** but for paragraph (1) or (2), subsection (a) would apply for the taxable year,

**"(B)** any long-term capital gain is attributable to property acquired by the S corporation during the period beginning 3 years before the first day of the taxable year and ending on the last day of the taxable year, and

**"(C)** the basis of such property is determined in whole or in part by reference to the basis of any property in the hands of another corporation which was not an S corporation throughout all of the period described in subparagraph (B) before the transfer by such other corporation and during which such other corporation was in existence,

then subsection (a) shall apply for the taxable year, but the amount of the tax determined under subsection (b) shall not exceed a tax, determined as provided in section 1201(a), on the net capital gain attributable to property acquired as provided in subparagraph (B) and having a basis described in subparagraph (C).

**"(d) DETERMINATION OF TAXABLE INCOME.—**For purposes of subsections (a)(2) and (b)(2), taxable income of the corporation shall be determined under section 63(a) without regard to—

- 26 USC 241. “(1) the deduction allowed by section 172 (relating to net operating loss deduction), and  
“(2) the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures).
- 26 USC 1375. “SEC. 1375. TAX IMPOSED WHEN PASSIVE INVESTMENT INCOME OF CORPORATION HAVING SUBCHAPTER C EARNINGS AND PROFITS EXCEEDS 25 PERCENT OF GROSS RECEIPTS.
- 26 USC 341. “(a) GENERAL RULE.—If for the taxable year an S corporation has—  
“(1) subchapter C earnings and profits at the close of such taxable year, and  
“(2) gross receipts more than 25 percent of which are passive investment income,  
then there is hereby imposed a tax on the income of such corporation for such taxable year. Such tax shall be computed by multiplying the excess net passive income by the highest rate of tax specified in section 11(b).
- “(b) DEFINITIONS.—For purposes of this section—  
“(1) EXCESS NET PASSIVE INCOME.—  
“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘excess net passive income’ means an amount which bears the same ratio to the net passive income for the taxable year as—  
“(i) the amount by which the passive investment income for the taxable year exceeds 25 percent of the gross receipts for the taxable year, bears to  
“(ii) the passive investment income for the taxable year.  
“(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the corporation’s taxable income for the taxable year (determined in accordance with section 1374(d)).
- Ante, p. 1683. “(2) NET PASSIVE INCOME.—The term ‘net passive income’ means—  
“(A) passive investment income, reduced by  
“(B) the deductions allowable under this chapter which are directly connected with the production of such income (other than deductions allowable under section 172 and part VIII of subchapter B).
- Ante, p. 1672. “(3) PASSIVE INVESTMENT INCOME; ETC.—The terms ‘subchapter C earnings and profits’, ‘passive investment income’, and ‘gross receipts’ shall have the same respective meanings as when used in paragraph (3) of section 1362(d).
- 26 USC 31. “(c) SPECIAL RULES.—  
“(1) DISALLOWANCE OF CREDIT.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 39) against the tax imposed by subsection (a).  
“(2) COORDINATION WITH SECTION 1374.—If any gain—  
“(A) is taken into account in determining passive income for purposes of this section, and  
“(B) is taken into account under section 1374,  
the amount of such gain taken into account under section 1374 shall be reduced by the portion of the excess net passive income for the taxable year which is attributable (on a pro rata basis) to such gain.

**“PART IV—DEFINITIONS; MISCELLANEOUS**

“Sec. 1377. Definitions and special rule.

“Sec. 1378. Taxable year of S corporation.

“Sec. 1379. Transitional rules on enactment.

**“SEC. 1377. DEFINITIONS AND SPECIAL RULE.**

26 USC 1377.

“(a) **PRO RATA SHARE.**—For purposes of this subchapter—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), each shareholder's pro rata share of any item for any taxable year shall be the sum of the amounts determined with respect to the shareholder—

“(A) by assigning an equal portion of such item to each day of the taxable year, and

“(B) then by dividing that portion pro rata among the shares outstanding on such day.

“(2) **ELECTION TO TERMINATE YEAR.**—Under regulations prescribed by the Secretary, if any shareholder terminates his interest in the corporation during the taxable year and all persons who are shareholders during the taxable year agree to the application of this paragraph, paragraph (1) shall be applied as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

“(b) **POST-TERMINATION TRANSITION PERIOD.**—

“(1) **IN GENERAL.**—For purposes of this subchapter, the term ‘post-termination transition period’ means—

“(A) the period beginning on the day after the last day of the corporation's last taxable year as an S corporation and ending on the later of—

“(i) the day which is 1 year after such last day, or

“(ii) the due date for filing the return for such last year as an S corporation (including extensions), and

“(B) the 120-day period beginning on the date of a determination that the corporation's election under section 1362(a) had terminated for a previous taxable year.

“(2) **DETERMINATION DEFINED.**—For purposes of paragraph (1), the term ‘determination’ means—

“(A) a court decision which becomes final,

“(B) a closing agreement, or

“(C) an agreement between the corporation and the Secretary that the corporation failed to qualify as an S corporation.

“(c) **MANNER OF MAKING ELECTIONS, ETC.**—Any election under this subchapter, and any revocation under section 1362(d)(1), shall be made in such manner as the Secretary shall by regulations prescribe.

*Ante*, p. 1672**“SEC. 1378. TAXABLE YEAR OF S CORPORATION.**

26 USC 1378.

“(a) **GENERAL RULE.**—For purposes of this subtitle—

“(1) an S corporation shall not change its taxable year to any accounting period other than a permitted year, and

“(2) no corporation may make an election under section 1362(a) for any taxable year unless such taxable year is a permitted year.

“(b) **PERMITTED YEAR DEFINED.**—For purposes of this section, the term ‘permitted year’ means a taxable year which—

“(1) is a year ending December 31, or

“(2) is any other accounting period for which the corporation establishes a business purpose to the satisfaction of the Secretary.

**“(c) EXISTING S CORPORATIONS REQUIRED TO USE PERMITTED YEAR AFTER 50-PERCENT SHIFT IN OWNERSHIP.—**

“(1) **IN GENERAL.**—A corporation which is an S corporation for a taxable year which includes December 31, 1982, shall not be treated as an S corporation for any subsequent taxable year beginning after the first day on which more than 50 percent of the stock is newly owned stock unless such subsequent taxable year is a permitted year.

“(2) **NEWLY OWNED STOCK.**—For purposes of paragraph (1), the stock held by any person on any day shall be treated as newly owned stock to the extent that—

“(A) the percentage of the stock of such corporation owned by such person on such day, exceeds

“(B) the percentage of the stock of such corporation owned by such person on December 31, 1982.

**“(3) STOCK ACQUIRED BY REASON OF DEATH, GIFT FROM FAMILY MEMBER, ETC.—**

“(A) **IN GENERAL.**—For purposes of paragraph (2), if—  
“(i) a person acquired stock in the corporation after December 31, 1982, and

“(ii) such stock was acquired by such person—

“(I) by reason of the death of a qualified transferor,

“(II) by reason of a gift from a qualified transferor who is a member of such person’s family, or

“(III) by reason of a qualified buy-sell agreement from a qualified transferor (or his estate) who was a member of such person’s family,

then such stock shall be treated as held on December 31, 1982, by the person described in clause (i).

“(B) **QUALIFIED TRANSFEROR.**—For purposes of subparagraph (A), the term ‘qualified transferor’ means a person—

“(i) who held the stock in the corporation (or predecessor stock) on December 31, 1982, or

“(ii) who acquired the stock in an acquisition which meets the requirements of subparagraph (A).

“(C) **FAMILY.**—For purposes of subparagraph (A), the term ‘family’ has the meaning given such term by section 267(c)(4).

“(D) **QUALIFIED BUY-SELL AGREEMENT.**—For purposes of subparagraph (A), the term ‘qualified buy-sell agreement’ means any agreement which—

“(i) has been continuously in existence since September 28, 1982, and

“(ii) provides that on the death of any party to such agreement, the stock in the S corporation held by such party will be sold to surviving parties to such agreement who were parties to such agreement on September 28, 1982.

“(a) **OLD ELECTIONS.**—Any election made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall be treated as an election made under section 1362.

“(b) REFERENCES TO PRIOR LAW INCLUDED.—In applying this subchapter to any taxable year beginning after December 31, 1982, any reference in this subchapter to another provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a reference to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982.

“(c) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME.—If a corporation was an electing small business corporation for the last preenactment year, subsections (f) and (d) of section 1375 (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall continue to apply with respect to distributions of undistributed taxable income for any taxable year beginning before January 1, 1983.

“(d) CARRYFORWARDS.—If a corporation was an electing small business corporation for the last preenactment year and is an S corporation for the 1st postenactment year, any carryforward to the 1st postenactment year which arose in a taxable year for which the corporation was an electing small business corporation shall be treated as arising in the 1st postenactment year.

“(e) PREENACTMENT AND POSTENACTMENT YEARS DEFINED.—For purposes of this subsection—

“(1) LAST PREENACTMENT YEAR.—The term ‘last preenactment year’ means the last taxable year of a corporation which begins before January 1, 1983.

“(2) 1ST POSTENACTMENT YEAR.—The term ‘1st postenactment year’ means the 1st taxable year of a corporation which begins after December 31, 1982.”

### SEC. 3. S CORPORATION TREATED LIKE PARTNERSHIP FOR PURPOSES OF CERTAIN PROVISIONS.

(a) DEPLETION IN THE CASE OF OIL AND GAS WELLS (SECTION 613A).—Subsection (c) of section 613A (relating to exemption for independent producers and royalty owners) is amended by adding at the end thereof the following new paragraph:

26 USC 613A.

“(13) SUBCHAPTER S CORPORATIONS.—

“(A) COMPUTATION OF DEPLETION ALLOWANCE AT SHAREHOLDER LEVEL.—In the case of an S corporation, the allowance for depletion with respect to any oil or gas property shall be computed separately by each shareholder.

“(B) ALLOCATION OF BASIS.—The S corporation shall allocate to each shareholder his pro rata share of the adjusted basis of the S corporation in each oil or gas property held by the S corporation. The allocation shall be made as of the later of the date of acquisition of the property by the S corporation, or the first day of the first taxable year of the S corporation to which the Subchapter S Revision Act of 1982 applies. Each shareholder shall separately keep records of his share of the adjusted basis in each oil and gas property of the S corporation, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the S corporation. In the case of any distribution of oil or gas property to its shareholders by the S corporation, the corporation’s adjusted basis in the property shall be an amount equal to the sum

of the shareholders' adjusted bases in such property, as determined under this subparagraph.

**“(C) COORDINATION WITH TRANSFER RULE OF PARAGRAPH (9).—**For purposes of paragraph (9)—

“(i) an S corporation shall be treated as a partnership, and the shareholders of the S corporation shall be treated as partners, and

“(ii) an election by a C corporation to become an S corporation shall be treated as a transfer of all its properties effective on the day on which such election first takes effect.

**“(D) COORDINATION WITH TRANSFER RULE OF PARAGRAPH (10).—**For purposes of paragraphs (9) and (10), if an S corporation becomes a C corporation, each shareholder shall be treated as having transferred to such corporation his pro rata share of all the assets of the S corporation.”

**(b) WINDFALL PROFIT TAX.—**

26 USC 4996.

(1) Paragraph (1) of section 4996(a) (defining producer) is amended by adding at the end thereof the following new subparagraph:

**“(C) SUBCHAPTER S CORPORATIONS.—**

“(i) **IN GENERAL.**—If (but for this subparagraph) an S corporation would be treated as a producer of any crude oil—

“(I) such crude oil shall be allocated among the shareholders of such corporation, and

“(II) any shareholder to whom such crude oil is allocated (and not the S corporation) shall be treated as the producer of such crude oil.

“(ii) **ALLOCATION.**—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of the shareholder's pro rata share (as determined under section 1377(a)) of the income of the corporation.”

*Ante*, p. 1685.

26 USC 4992.

(2) Section 4992 (relating to independent producer oil) is amended by adding at the end thereof the following new subsection:

**“(f) S CORPORATION TREATED AS PARTNERSHIP.—**For purposes of subsections (d) and (e)—

“(1) an S corporation shall be treated as a partnership, and

“(2) the shareholders of the S corporation shall be treated as partners of such partnership.”

**(c) OPTIONAL WRITEOFF OF CERTAIN TAX PREFERENCES (SECTION 58(i)).—**

*Ante*, p. 417.

(1) Subparagraph (C) of section 58(i)(4) (defining nonlimited partnership intangible drilling costs) is amended to read as follows:

**“(C) NONLIMITED INTANGIBLE DRILLING COSTS.—**For purposes of this paragraph, the term ‘nonlimited intangible drilling costs’ means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to a limited business interest (as defined in section 55(e)(8)(C)) of such individual.”

*Ante*, p. 411.

(2) Subparagraph (D) of section 58(i)(5) is amended—

(A) by adding at the end thereof the following new sentence: “A similar rule shall apply in the case of an S corporation and its shareholders.”, and



(B) by striking out “PARTNERS” in the subparagraph heading and inserting in lieu thereof “PARTNERS AND SHAREHOLDERS OF S CORPORATIONS”.

(3) The paragraph heading for paragraph (4) of section 58(i) is amended by striking out “INTEREST AS LIMITED PARTNER” and inserting in lieu thereof “LIMITED BUSINESS INTEREST”. *Ante*, p. 417.

(d) USED PROPERTY FOR PURPOSES OF INVESTMENT CREDIT (SECTION 48(c)).—Subparagraph (D) of section 48(c)(2) (relating to partnerships) is amended— 26 USC 48.

(1) by adding at the end thereof the following new sentence: “A similar rule shall apply in the case of an S corporation and its shareholders.”, and

(2) by striking out “PARTNERSHIPS” in the subparagraph heading and inserting in lieu thereof “PARTNERSHIPS AND S CORPORATIONS”.

(e) INCOME FROM DISCHARGE OF INDEBTEDNESS (SECTION 108).—Paragraph (6) of section 108(d) (relating to application of section at partner level) is amended to read as follows: 26 USC 108.

“(6) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL OR S CORPORATION SHAREHOLDER LEVEL.—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level. In the case of an S corporation, subsections (a), (b), and (c) shall be applied at the shareholder level.”

(f) ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS (SECTION 179).—Paragraph (8) of section 179(d) (relating to dollar limitation in the case of partnerships) is amended— 95 Stat. 219.  
26 USC 179.

(1) by adding at the end thereof the following new sentence: “A similar rule shall apply in the case of an S corporation and its shareholders.”, and

(2) by striking out “PARTNERSHIPS” in the paragraph heading and inserting in lieu thereof “PARTNERSHIPS AND S CORPORATIONS”.

(g) AMORTIZATION OF REFORESTATION EXPENDITURES (SECTION 194).—Subparagraph (B) of section 194(b)(2) (relating to partnerships) is amended— 26 USC 194.

(1) by adding at the end thereof the following new sentence: “A similar rule shall apply in the case of an S corporation and its shareholders.”, and

(2) by striking out “PARTNERSHIPS” in the subparagraph heading and inserting in lieu thereof “PARTNERSHIPS AND S CORPORATIONS”.

(h) TREATMENT OF LOSSES AND UNPAID EXPENSES AND INTEREST IN THE CASE OF TRANSACTIONS BETWEEN S CORPORATIONS AND CERTAIN RELATED ENTITIES (SECTION 267(b)).—

(1) Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new paragraphs: 26 USC 267.

“(10) An S corporation and a partnership if the same persons own—

“(A) more than 50 percent in value of the outstanding stock of the S corporation, and

“(B) more than 50 percent of the capital interest, or the profits interest, in the partnership;

“(11) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation; or

“(12) An S corporation and a C corporation, if the same individual owns more than 50 percent in value of the outstanding stock of each corporation.”

26 USC 267.

(2) Section 267 is amended by adding at the end thereof the following new subsection:

“(f) SPECIAL RULES FOR UNPAID EXPENSES AND INTEREST OF S CORPORATIONS.—

“(1) IN GENERAL.—In the case of any amount paid or incurred by an S corporation, if—

“(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

“(B) at the close of the taxable year of the S corporation for which (but for this paragraph) the amount would be deductible under section 162, 212, or 163, both the S corporation and the person to whom the payment is to be paid are persons specified in one of the paragraphs of subsection (b),

then no deduction shall be allowed in respect of expenses otherwise deductible under section 162 or 212, or of interest otherwise deductible under section 163, before the day as of which the amount thereof is includible in the gross income of the person to whom the payment is made.

“(2) CERTAIN SHAREHOLDERS, ETC., TREATED AS RELATED PERSONS.—For purposes of applying paragraph (1)—

“(A) an S corporation,

“(B) any person who owns, directly or indirectly, 2 percent or more in value of the outstanding stock of such corporation, and

“(C) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)(A)) to a person described in subparagraph (B), shall be treated as persons specified in a paragraph of subsection (b).

“(3) SUBSECTION (a)(2) NOT TO APPLY.—Subsection (a)(2) shall not apply to any amount paid or incurred by an S corporation.”

(3) Subsection (b) of section 267 is amended by striking out “or” at the end of paragraph (8), and by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon.

(i) WITHHOLDING FROM INTEREST AND DIVIDENDS.—

*Ante*, p. 579.

(1) Paragraph (1) of section 3453(b) (relating to certain middlemen treated as payors) is amended by striking out “or” at the end of subparagraph (B), by inserting “or” at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

“(D) any S corporation which receives any payment.”

*Ante*, p. 580.

(2) Subsection (b) of section 3454 (defining dividend) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Paragraph (2) of section 3454(b) (as redesignated by paragraph (2)) is amended by inserting “and” at the end of subparagraph (F), by striking out “, and” at the end of subparagraph (G) and inserting in lieu thereof a period, and by striking subparagraph (H).

(4) Subsection (d) of section 31 (as amended by section 302 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended to read as follows: *Ante*, p. 585.

“(d) YEAR FOR WHICH CREDIT ALLOWED.—Any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.”

#### SEC. 4. TAX TREATMENT OF SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

### “Subchapter D—Tax Treatment of Subchapter S Items

“Sec. 6241. Tax treatment determined at corporate level.

“Sec. 6242. Shareholder's return must be consistent with corporate return or Secretary notified of inconsistency.

“Sec. 6243. All shareholders to be notified of proceedings and given opportunity to participate.

“Sec. 6244. Certain partnership provisions made applicable.

“Sec. 6245. Subchapter S item defined.

#### “SEC. 6241. TAX TREATMENT DETERMINED AT CORPORATE LEVEL.

26 USC 6241

“Except as otherwise provided in regulations prescribed by the Secretary, the tax treatment of any subchapter S item shall be determined at the corporate level.

#### “SEC. 6242. SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

26 USC 6242

“A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return unless the shareholder notifies the Secretary (at the time and in the manner prescribed by regulations) of the inconsistency.

#### “SEC. 6243. ALL SHAREHOLDERS TO BE NOTIFIED OF PROCEEDINGS AND GIVEN OPPORTUNITY TO PARTICIPATE.

26 USC 6243

“In the manner and at the time prescribed in regulations, each shareholder in a corporation shall be given notice of, and the right to participate in, any administrative or judicial proceeding for the determination at the corporate level of any subchapter S item.

#### “SEC. 6244. CERTAIN PARTNERSHIP PROVISIONS MADE APPLICABLE.

26 USC 6244

“The provisions of—

“(1) subchapter C which relate to—

“(A) assessing deficiencies, and filing claims for credit or refund, with respect to partnership items, and

“(B) judicial determination of partnership items, and

“(2) so much of the other provisions of this subtitle as relate to partnership items,

are (except to the extent modified or made inapplicable in regulations) hereby extended to and made applicable to subchapter S items.

26 USC 6245.

**"SEC. 6245. SUBCHAPTER S ITEM DEFINED.**

"For purposes of this subchapter, the term 'subchapter S item' means any item of an S corporation to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporate level than at the shareholder level."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Tax treatment of subchapter S items."

**SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.****(a) TECHNICAL AMENDMENTS.—**

26 USC 44D.

(1) SECTION 44D(d)(9).—Paragraph (9) of section 44D(d) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(9) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

26 USC 44E.

(2) SECTION 44E(d)(5).—Paragraph (5) of section 44E(d) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

95 Stat. 241.

26 USC 44F.

**(3) SECTION 44F.—**

(A) Subparagraph (A) of section 44F(f)(2) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(A) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(B) Clause (iv) of section 44F(g)(1)(B) is amended by striking out "an electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation".

26 USC 46.

(4) SECTION 46(a)(4).—The second sentence of paragraph (4) of section 46(a) (defining liability for tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations)".

*Ante*, p. 1685.

95 Stat. 229.

(5) SECTION 46(c)(8)(C).—Subparagraph (C) of section 46(c)(8) (relating to special rules for partnerships and subchapter S corporations) is amended by striking out "electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "S corporation".

(6) SECTION 46(e)(3).—Paragraph (3) of section 46(e) (relating to noncorporate lessors) is amended by striking out "an electing small business corporation (as defined in section 1371)" and inserting in lieu thereof "an S corporation".

26 USC 48.

(7) SECTION 48(e).—Subsection (e) of section 48 (relating to subchapter S corporations) is hereby repealed.

(8) SECTION 48(k)(5)(D)(i).—The second sentence of clause (i) of section 48(k)(5)(D) (relating to allocation of direct production costs) is amended by striking out "an electing small business

corporation (within the meaning of section 1371)" and inserting in lieu thereof "an S corporation".

(9) SECTION 50A(a)(3).—The second sentence of paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations),". 26 USC 50A.

(10) SECTION 50B(d).—Subsection (d) of section 50B (relating to subchapter S corporations) is hereby repealed. 26 USC 50B.

(11) SECTION 52(d).—Section 52 is amended by striking out subsection (d) and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively. 26 USC 52.

(12) SECTION 53(a).—The second sentence of subsection (a) of section 53 (relating to limitation based on amount of tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations),". 26 USC 53.

(13) SECTION 55(e)(8)(C).—Subparagraph (C) of section 55(e)(8) is amended by striking out "an electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "an S corporation". *Ante*, p. 411.

(14) SECTION 57(a).—The last sentence of section 57(a) (defining items of tax preference) is amended by striking out "an electing small business corporation (as defined in section 1371(b)) and". 26 USC 57.

(15) SECTION 57(b).—Subsection (b) of section 57 is amended—  
 (A) by striking out "an applicable corporation" in paragraph (1) and inserting in lieu thereof "a corporation",  
 (B) by striking out "applicable corporation" in paragraph (2) and inserting in lieu thereof "corporation", and  
 (C) by striking out paragraph (3).

(16) SECTION 58(d).—Subsection (d) of section 58 (relating to electing small business corporations and their shareholders) is amended to read as follows: 26 USC 58.

"(d) CERTAIN CAPITAL GAINS OF S CORPORATIONS.—If for a taxable year of an S corporation a tax is imposed on the income of such corporation under section 1374, such corporation shall be subject to the tax imposed by section 56, but computed only with reference to the item of tax preference set forth in section 57(a)(9)(B) to the extent attributable to gains subject to the tax imposed by section 1374." *Ante*, p. 1683.

(17) SECTION 62(9).—Paragraph (9) of section 62 (relating to pension, etc., plans of an electing small business corporation) is hereby repealed. 26 USC 62.

(18) SECTION 163(d)(4).—Paragraph (4) of section 163(d) (relating to limitation on interest on investment indebtedness) is amended by striking out subparagraphs (B) and (C) and redesignating subparagraph (D) as subparagraph (B). 26 USC 163.

(19) SECTION 168(f)(8)(B).—Clause (i) of section 168(f)(8)(B) (relating to special rules for leases), as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "an electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation". 95 Stat. 204.  
 26 USC 168.  
*Ante*, p. 324.

*Ante*, p. 442.

(20) SECTION 168(f).—Subclause (I) of section 168(f)(8)(C)(i) (as added by subsection (a) of section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out “an electing small business corporation within the meaning of section 1371(b)” and inserting in lieu thereof “an S corporation”.

26 USC 170.

(21) SECTION 170 (e).—

(A) Subparagraph (A) of section 170(e)(3) (defining qualified contributions) is amended by striking out “an electing small business corporation within the meaning of section 1371(b))” and inserting in lieu thereof “an S corporation”.

95 Stat. 248.

(B) Clause (i) of section 170(e)(4)(D) is amended to read as follows:

“(i) an S corporation.”

26 USC 172.

(22) SECTION 172 (f).—Subsection (f) of section 172 (relating to disallowance of net operating loss of electing small business corporations) is hereby repealed.

26 USC 183.

(23) SECTION 183 (a).—Subsection (a) of section 183 (relating to activities not engaged in for profit) is amended by striking out “an electing small business corporation (as defined in section 1371(b))” and inserting in lieu thereof “an S corporation”.

*Ante*, p. 432.

(24) SECTION 189 (d).—Paragraph (2) of section 189(d) is amended by striking out “an electing small business corporation (within the meaning of section 1371(b))” and inserting in lieu thereof “an S corporation”.

26 USC 280

(25) SECTION 280 (a).—The second sentence of subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended by striking out “an electing small business corporation (as defined in section 1371(b)),” and inserting in lieu thereof “an S corporation.”

26 USC 280A.

(26) SECTION 280A.—

(A) Subsection (a) of section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking out “an electing small business corporation,” and inserting in lieu thereof “an S corporation.”

(B) Paragraph (1) of section 280A(e) is amended by striking out “an electing small business corporation” and inserting in lieu thereof “an S corporation”.

(C) Paragraph (2) of section 280A(f) is amended to read as follows:

“(2) PERSONAL USE BY SHAREHOLDERS OF S CORPORATION.—In the case of an S corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting ‘any shareholder of the S corporation’ for ‘the taxpayer’ each place it appears.”

*Ante*, p. 423.

(27) SECTION 291.—

(A) Subsections (a) and (b) of section 291 are each amended by striking out “an applicable corporation” each place it appears and inserting in lieu thereof “a corporation”.

(B) Subsection (e) of section 291 is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(28) SECTION 447(c)(1).—Paragraph (1) of section 447(c) (relating to exception for small business and family corporations) is amended to read as follows:

26 USC 447

“(1) an S corporation.”

(29) SECTION 447(g).—Clause (i) of section 447(g)(4)(A) is amended to read as follows:

*Ante*, p. 495.

“(i) an S corporation, or”

(30) SECTION 464(c)(1).—Paragraph (1) of section 464(c) (defining farming syndicate) is amended by striking out “an electing small business corporation (as defined in section 1371(b))” each place it appears and inserting in lieu thereof “an S corporation”.

26 USC 464.

(31) SECTION 465.—

26 USC 465.

(A) Paragraph (1) of section 465(a) (relating to deductions limited to amount at risk) is amended by adding “and” at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(B) Paragraph (3) of section 465(a) is amended—

(i) by striking out “paragraph (1)(C)” and inserting in lieu thereof “paragraph (1)(B)”, and

(ii) by striking out “PARAGRAPH (1)(C)” in the paragraph heading and inserting in lieu thereof “PARAGRAPH (1)(B)”.

(C) The last sentence of paragraph (2) of section 465(c) is amended—

(i) by striking out “an electing small business corporation” the first place it appears and inserting in lieu thereof “an S corporation”, and

(ii) by striking out “an electing small business corporation” the second place it appears and inserting in lieu thereof “the S corporation”.

(D) Clause (ii) of section 465(c)(3)(B) is amended by striking out “electing small business corporation (as defined in section 1371(b))” and inserting in lieu thereof “an S corporation”.

(E) Subparagraph (A) of section 465(c)(4) is amended by striking out “subsection (a)(1)(C)” and inserting in lieu thereof “subsection (a)(1)(B)”.

(32) SECTION 992(d)(7).—Paragraph (7) of section 992(d) (relating to corporations not eligible to be a DISC) is amended to read as follows:

26 USC 992

“(7) an S corporation.”

(33) SECTION 1016(a)(18).—Paragraph (18) of section 1016(a) (relating to adjustments to basis) is amended to read as follows:

26 USC 1016.

“(18) to the extent provided in section 1367 in the case of stock of, and indebtedness owed to, shareholders of an S corporation;”.

(34) SECTION 1101(a)(3)(D).—Subparagraph (D) of section 1101(a)(3) (relating to non-pro rata distributions from certain closely held corporations) is amended by striking out “section 1371(a)(1)” and inserting in lieu thereof “section 1361(b)(1)(A)”.

26 USC 1101

(35) SECTION 1212(a).—Subsection (a) of section 1212 (relating to capital loss carrybacks and carryovers of corporations) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

26 USC 1212.

(36) SECTION 1251(b)(2)(B).—

26 USC 1251.

(A) Subparagraph (B) of section 1251(b)(2) (relating to excess deductions account) is amended—

(i) by striking out “an electing small business corporation (as defined in section 1371(b)),” and inserting in lieu thereof “an S corporation,” and

(ii) by striking out “electing small business corporation” each place it appears in the second and third sentences and inserting in lieu thereof “S corporation”.

(B) Subparagraph (D) of section 1251(b)(2) is amended by striking out “an electing small business corporation” and inserting in lieu thereof “an S corporation”.

26 USC 1254.

(37) SECTION 1254(b)(2).—Paragraph (2) of section 1254(b) (relating to special rules for gain from dispositions of interest in oil, gas, or geothermal property) is amended by striking out “an electing small business corporation (as defined in section 1371(b)),” and inserting in lieu thereof “an S corporation.”

95 Stat. 327.

26 USC 1256.

(38) SECTION 1256(e)(3)(B).—Subparagraph (B) of section 1256(e)(3) (defining syndicate) is amended by striking out “an electing small business corporation within the meaning of section 1371(b)” and inserting in lieu thereof “an S corporation”.

26 USC 6037.

(39) SECTION 6037.—

(A) Section 6037 (relating to return of electing small business corporation) is amended—

(i) by striking out “Every electing small business corporation (as defined in section 1371(b))” and inserting in lieu thereof “Every S corporation”,

(ii) by striking out “and such other information” and inserting in lieu thereof “each shareholder’s pro rata share of each item of the corporation for the taxable year, and such other information”, and

(iii) by striking out “**ELECTING SMALL BUSINESS CORPORATION**” in the section heading and inserting in lieu thereof “**S CORPORATION**”.

(B) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out “electing small business corporation” in the item relating to section 6037 and inserting in lieu thereof “S corporation”.

26 USC 6042.

(40) SECTION 6042(b)(2).—Paragraph (2) of section 6042(b) (defining dividend) is amended to read as follows:

“(2) EXCEPTIONS.—For purposes of this section, to the extent provided in regulations prescribed by the Secretary, the term ‘dividend’ does not include any distribution or payment—

“(A) by a foreign corporation, or

“(B) to a foreign corporation, a nonresident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens.”

26 USC 6362.

(41) SECTION 6362(f)(7).—Paragraph (7) of section 6362(f) (relating to partnerships, trusts, subchapter S corporations, and other conduit entities) is amended—

(A) by striking out “electing small business corporations (within the meaning of section 1371(a))” in subparagraph (D) and inserting in lieu thereof “S corporations”, and

(B) by striking out “SUBCHAPTER S CORPORATIONS,” in the paragraph heading.



(42) Section 6661(b).—Subparagraph (B) of section 6661(b)(1) is amended by striking out “an electing small business corporation (as defined in section 1371(b))” and inserting in lieu thereof “an S corporation”.

*Ante*, p. 614.

(43) Subsection (d) of section 408 of the Employee Retirement Income Security Act of 1974 is amended by striking out “section 1379 of the Internal Revenue Code of 1954” and inserting in lieu thereof “section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982”.

29 USC 1108.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by striking out the item relating to subchapter S and inserting in lieu thereof the following:

“SUBCHAPTER S. Tax treatment of S corporations and their shareholders.”

#### SEC. 6. EFFECTIVE DATES.

26 USC 1361  
note.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

#### (b) TRANSITIONAL RULES.—

(1) SECTIONS 1379 AND 62(9) CONTINUE TO APPLY FOR 1983.—Sections 1379 and 62(9) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act) shall remain in effect for years beginning before January 1, 1984.

(2) ALLOWANCE OF EXCLUSION OF DEATH BENEFIT.—Notwithstanding section 241(b) of the Tax Equity and Fiscal Responsibility Act of 1982, in the case of amounts received under a plan of an S corporation, the amendment made by section 239 of such Act shall apply with respect to decedents dying after December 31, 1982.

*Ante*, p. 520.

*Ante*, p. 514.

(3) NEW PASSIVE INCOME RULES APPLY TO TAXABLE YEARS BEGINNING DURING 1982.—In the case of a taxable year beginning during 1982—

(A) sections 1362(d)(3), 1366(f)(3), and 1375 of the Internal Revenue Code of 1954 (as amended by this Act) shall apply, and

*Ante*, pp. 1672,  
1677, 1684.

(B) section 1372(e)(5) of such Code (as in effect on the day before the date of the enactment of this Act) shall not apply.

#### (c) GRANDFATHER RULES.—

(1) SUBSIDIARIES WHICH ARE FOREIGN CORPORATIONS OR DISC'S.—In the case of any corporation which on September 28, 1982, would have been a member of the same affiliated group as an electing small business corporation but for paragraph (3) or (7) of section 1504(b) of the Internal Revenue Code of 1954, subparagraph (A) of section 1361(b)(2) of such Code (as amended by section 2) shall be applied by substituting “without regard to the exceptions contained in paragraphs (1), (2), (4), (5), and (6) of subsection (b) thereof” for “without regard to the exceptions contained in subsection (b) thereof”.

*Ante*, p. 1669.

#### (2) CASUALTY INSURANCE COMPANIES.—

(A) IN GENERAL.—In the case of any qualified casualty insurance electing small business corporation—

(i) the amendments made by this Act shall not apply, and

26 USC 1371.  
26 USC 831.

(ii) subchapter S (as in effect on July 1, 1982) of chapter 1 of the Internal Revenue Code of 1954 and part III of subchapter L of chapter 1 of such Code shall apply.

(B) **QUALIFIED CASUALTY INSURANCE ELECTING SMALL BUSINESS CORPORATION.**—The term “qualified casualty insurance electing small business corporation” means any corporation described in section 831(a) of the Internal Revenue Code of 1954 if—

(i) as of July 12, 1982, such corporation was an electing small business corporation and was described in section 831(a) of such Code,

(ii) such corporation was formed before April 1, 1982, and proposed (through a written private offering first circulated to investors before such date) to elect to be taxed as a subchapter S corporation and to be operated on an established insurance exchange, or

(iii) such corporation is approved for membership on an established insurance exchange pursuant to a written agreement entered into before December 31, 1982, and such corporation is described in section 831(a) of such Code as of December 31, 1984.

A corporation shall not be treated as a qualified casualty insurance electing small business corporation unless an election under subchapter S of chapter 1 of such Code is in effect for its first taxable year beginning after December 31, 1984.

*Ante*, p. 1669.

(3) **CERTAIN CORPORATIONS WITH OIL AND GAS PRODUCTION.**—  
(A) **IN GENERAL.**—In the case of any qualified oil corporation—

(i) the amendments made by this Act shall not apply, and

(ii) subchapter S (as in effect on July 1, 1982) of chapter 1 of the Internal Revenue Code of 1954 shall apply.

(B) **QUALIFIED OIL CORPORATION.**—For purposes of this paragraph, the term “qualified oil corporation” means any corporation if—

(i) as of September 28, 1982, such corporation—

(I) was an electing small business corporation, or

(II) was a small business corporation which made an election under section 1372(a) after December 31, 1981, and before September 28, 1982,

(ii) for calendar year 1982, the combined average daily production of domestic crude oil or natural gas of such corporation and any one of its substantial shareholders exceeds 1,000 barrels, and

(iii) such corporation makes an election under this subparagraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) **AVERAGE DAILY PRODUCTION.**—For purposes of subparagraph (B), the average daily production of domestic crude oil or domestic natural gas shall be determined under section 613A(c)(2) of such Code without regard to the last sentence thereof.

(D) **SUBSTANTIAL SHAREHOLDER.**—For purposes of subparagraph (B), the term “substantial shareholder” means any person who on July 1, 1982, owns more than 40 percent (in value) of the stock of the corporation.

(4) **CONTINUITY REQUIRED.**—

(A) **IN GENERAL.**—This subsection shall cease to apply with respect to any corporation after—

(i) any termination of the election of the corporation under subchapter S of chapter 1 of such Code, or *Ante*, p. 1669.

(ii) the first day on which more than 50 percent of the stock of the corporation is newly owned stock within the meaning of section 1378(c)(2) of such Code (as amended by this Act). *Ante*, p. 1685.

(B) **SPECIAL RULES FOR PARAGRAPH (2).**—

(i) Paragraph (2) shall also cease to apply with respect to any corporation after the corporation ceases to be described in section 831(a) of such Code.

(ii) For purposes of determining under subparagraph (A)(ii) whether paragraph (2) ceases to apply to any corporation, section 1378(c)(2) of such Code (as amended by this Act) shall be applied by substituting “December 31, 1984” for “December 31, 1982” each place it appears therein.

(d) **TREATMENT OF EXISTING FRINGE BENEFIT PLANS.**—

(1) **IN GENERAL.**—In the case of existing fringe benefits of a corporation which as of September 28, 1982, was an electing small business corporation, section 1372 of the Internal Revenue Code of 1954 (as added by this Act) shall apply only with respect to taxable years beginning after December 31, 1987. *Ante*, p. 1682.

(2) **REQUIREMENTS.**—This subsection shall cease to apply with respect to any corporation after whichever of the following first occurs:

(A) the first day of the first taxable year beginning after December 31, 1982, with respect to which the corporation does not meet the requirements of section 1372(e)(5) of such Code (as in effect on the day before the date of the enactment of this Act),

(B) any termination after December 31, 1982, of the election of the corporation under subchapter S of chapter 1 of such Code, or

(C) the first day on which more than 50 percent of the stock of the corporation is newly owned stock within the meaning of section 1378(c)(2) of such Code (as amended by this Act).

(3) **EXISTING FRINGE BENEFIT.**—For purposes of this subsection, the term “existing fringe benefit” means any employee fringe benefit of a type which the corporation provided to its employees as of September 28, 1982.

*Ante*, p. 1672.

(e) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1954, as amended by this Act (relating to no election permitted within 5 years after termination of prior election), any termination under section 1372(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall not be taken into account.

Approved October 19, 1982.

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LEGISLATIVE HISTORY—H.R. 6055:

HOUSE REPORT No. 97-826 (Comm. on Ways and Means).

SENATE REPORT No. 97-640 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 20, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendments.

Public Law 97-355  
97th Congress

Joint Resolution

To designate the month of November 1982 as "National Christmas Seal Month".

Oct. 19, 1982

[S.J. Res. 262]

Whereas chronic diseases of the lung afflict well over eighteen million Americans, cause more than two hundred thousand deaths annually, and cost the Nation more than \$45,000,000,000 each year in lost wages, productivity, and in direct costs of medical care;

Whereas diseases such as emphysema, chronic bronchitis, and lung cancer are responsible for three hundred and forty thousand premature deaths a year;

Whereas lung cancer is shortly expected to surpass breast cancer as a cause of death in American women, emphysema and other chronic obstructive pulmonary diseases have been the fastest rising cause of death in the United States in the last fourteen years, and over six million Americans, including two million children, suffer from asthma;

Whereas the American Lung Association, the Nation's first voluntary health organization providing services to communities with funds raised through private contributions, was founded in 1904 to combat tuberculosis when this lung disease was known in nearly every American family;

Whereas tuberculosis has been subdued, though not eradicated, and in this one hundredth anniversary year of the discovery of the tubercle bacillus, the American Lung Association, with other national and international health organizations, is pledged to eliminate tuberculosis from this country in the next decade; and

Whereas the American Lung Association now uses Christmas Seal dollars to support pulmonary research, advanced education of doctors and nurses in pulmonary medicine, and to provide services to thousands of Americans in their own communities: Now, therefore, be it

National Christ-  
mas Seal Month.

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*** That the month of November 1982 is designated as “National Christmas Seal Month” and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the month with appropriate activities supporting the Christmas Seal program.

Approved October 19, 1982.

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LEGISLATIVE HISTORY—S.J. Res. 262:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Oct. 1, considered and passed Senate and House.

Public Law 97-356  
97th Congress

An Act

To authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana.

Oct. 19, 1982

[H.R. 6029]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) notwithstanding the fourth sentence of section 2(a) of the Act entitled “An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes”, approved November 5, 1966 (16 U.S.C. 460u-1(a)), or any other provision of law, the Secretary of the Interior is authorized—

Indiana Dunes  
National  
Lakeshore.  
Land  
conveyance.  
16 USC 460u-1  
note.

(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as “Blue Heron Rookery”, and

(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as “Hoosier Prairie”.

(b) The Secretary of the Interior may not carry out the conveyance specified in subsection (a)(2) unless, simultaneously with such conveyance and in consideration of such conveyance, the State of Indiana—

(1) transfers to the Secretary all right, title, and interest in the land described in subsection (a)(1);

(2) enters into a recordable agreement satisfactory to the Secretary providing that—

(A) the State will not use, or permit the use, of the land described in subsection (a)(2) for any purpose other than the interpretation and public appreciation and use of the Hoosier Prairie Unit of the Indiana Dunes National Lakeshore;

(B) the State will not transfer any right, title, or interest in, or control over, any land described in subsection (a)(2) to any person other than the Secretary;

(C) the State will permit access by the Secretary at reasonable times to the land described in subsection (a)(2); and

(D) upon a final determination by the Secretary that—

(i) the State has failed to comply with the requirements of subparagraph (A) or (B), and

(ii) after receipt of notice from the Secretary respecting such failure, the State has failed or refused to comply with such requirements,

all right, title, and interest in such land shall revert to the United States for administration by the Secretary as part of the lakeshore.

The Secretary may make a determination under subparagraph (D) only after notice and opportunity for hearing on the record. The reversion under subparagraph (D) shall take effect upon publication of such determination by the Secretary in the Federal Register

Notice and  
hearing.  
Publication in  
Federal  
Register.

without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States court of appeals for the appropriate circuit within ninety days following such publication. In any such action the court may issue such orders as appropriate to carry out the requirements of this subsection.

Approved October 19, 1982.

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**LEGISLATIVE HISTORY—H.R. 6029:**

HOUSE REPORT No. 97-710 (Comm. on Interior and Insular Affairs)  
SENATE REPORT No. 97-561 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Aug. 16, considered and passed House.  
Oct. 1, considered and passed Senate.



Public Law 97-357  
97th Congress

An Act

To authorize appropriations for certain insular areas of the United States, and for other purposes.

Oct. 19, 1982

[H. R. 5139]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States  
insular areas.  
Appropriation  
authorization.

TITLE I—GUAM

SEC. 101. Section 7 of the Organic Act of Guam (64 Stat. 384, 387), as amended, is revised to read as follows:

48 USC 1422a.

“SEC. 7. (a) The people of Guam shall have the right of initiative and referendum, to be exercised under conditions and procedures specified in the laws of Guam.

“(b) Any Governor, Lieutenant Governor, or member of the legislature of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in such referendum election. The referendum election shall be initiated by the legislature of Guam following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) petition for such a referendum to the legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast at the last general election at which such official was elected preceding the filing of the petition.”

Referendum  
election

SEC. 102. Section 1(a)(1) of Public Law 95-348 (92 Stat. 487) is amended by deleting “involved.” and inserting in lieu thereof “involved, and \$6,052,000 for fiscal year 1983, such sums to remain available until expended.”

SEC. 103. Section 205 of Public Law 95-134 (91 Stat. 1159, 1162), as amended by subsection 1(d) of Public Law 95-348 (92 Stat. 487, 488), is further amended by deleting “Medical Center of the Marianas:” and inserting in lieu thereof “Medical Center of the Marianas, to renovate, maintain, and operate the Guam Memorial Hospital, and to construct, maintain, and operate a health care facility in the northern part of Guam.”

SEC. 104. The Organic Act of Guam (64 Stat. 384), as amended, is further amended—

48 USC 1421  
note.

(a) by deleting the first sentence of the sixth paragraph of section 6, as amended (82 Stat. 842, 843), and substituting the following: “The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic,

48 USC 1422.  
Reports to  
Congress and  
Secretary of  
Interior

social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report.”; and

(b) by deleting section 9-A (82 Stat. 842, 845), as amended (91 Stat. 1159, 1161), in its entirety, and inserting in lieu thereof the following new section 9-A:

“SEC. 9-A. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of Guam:

Transfer of  
functions to  
Inspector  
General.  
48 USC 1422d.

Audit.

“(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of Guam, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

Report.

“(2) The authority to report to the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

“(b) The authority granted in paragraph (a) shall extend to all activities of the government of Guam, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

5 USC app.  
Transfer of funds  
to Inspector  
General.

“(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.”.

## TITLE II—TRUST TERRITORY OF THE PACIFIC ISLANDS

48 USC 1681  
note.

SEC. 201. In section 402(a) of Public Law 96-597 (94 Stat. 3478) strike “by October 1, 1982,” and insert in lieu thereof: “by a date not later than ninety days following termination of the trusteeship agreement governing the administration of the Trust Territory of the Pacific Islands.”.

SEC. 202. (1) The Act of June 13, 1975 (89 Stat. 212), is amended by inserting the following language before the last sentence: “The corpus, income of, or distributions from such trust, or distributions to the beneficiaries of such trust shall not be subject to any form of United States Federal, State, or local taxation.”.

(2) The corpus, income of, or distributions from the Ujelang Trust Fund numbered 2 (established by the High Commissioner of the Trust Territory of the Pacific Islands), or distributions to the beneficiaries of such trust fund shall not be subject to any form of United States Federal, State, or local taxation.

Tax exclusions

SEC. 203. The Act of March 21, 1972 (86 Stat. 87), relating to the Trust Territory of the Pacific Islands is amended—

48 USC 1692.

(a) by amending section 5 (86 Stat. 88), to read: "The chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The chief executives shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The chief executives shall also make such other reports at such other times as may be required by the Congress or under applicable Federal laws. The chief executives shall submit to the Congress, the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific Islands, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263, 268).";

Reports to Congress.  
Secretary of Interior and others

(b) by deleting section 4 of the Act of June 30, 1954 (68 Stat. 330), as amended (87 Stat. 354; 91 Stat. 1162; 94 Stat. 85), in its entirety, and inserting in lieu thereof the following new section 4:

48 USC 1681 note

48 USC 1681b.

"SEC. 4. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands:

Functions transferred to Inspector General.

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the aforementioned governments including those pertaining to trust funds held by such governments.

Audit.

"(2) The authority to report to the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific

Report

Islands, the chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands all failures to collect amounts due the governments, and expenditures of funds or uses of property which are irregular or not pursuant to law.

5 USC app.

“(b) The authority granted in paragraph (a) shall extend to all activities of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263, 268).

48 USC 1681  
note.

Transfer of funds  
to Inspector  
General.

“(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function, with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Office of Inspector General, Department of the Interior.”

48 USC 1681c

(d) Section 201(a) of Public Law 96-205 (94 Stat. 85), is hereby repealed in its entirety.

48 USC 1692  
note.

(e) Nothing in this section shall be construed as requiring the Governor of the Northern Mariana Islands to submit any statement or report to the High Commissioner of the Trust Territory of the Pacific Islands.

28 USC 2680  
note.

SEC. 204. That the Northern Mariana Islands shall not be considered a foreign country for purposes of subsection (k) of section 2680 of title 28, United States Code, with respect to claims which accrued no more than two years prior to the effective date of this Act.

Inventory and  
study.

48 USC 1681  
note.

SEC. 205. The Secretary shall conduct, upon request of the affected regional governments and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural and recreational resources of the Trust Territory of the Pacific Islands (specifically composed of the Mariana, Caroline and Marshall Islands). Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. The inventory and study shall also identify areas or sites which qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places. A full report on such inventory and study shall be transmitted to the respectively involved governments, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United

Report to  
involved  
governments  
and  
congressional  
committees.

States Senate no later than two complete calendar years after the effective date of this Act.

### TITLE III—VIRGIN ISLANDS

SEC. 301. (a) Effective October 1, 1982, there is authorized to be appropriated to the Secretary of the Interior \$150,000 to be paid as a grant to the government of the Virgin Islands for use by the College of the Virgin Islands to study and plan for the creation of an institution for Caribbean educational, cultural, and technical interchange.

Educational  
grant, effective  
date

(b) The Secretary may place such stipulations as he deems appropriate on the use of funds appropriated pursuant to subsection (a) of this section.

(c) Grant funds appropriated pursuant to subsection (a) but not obligated or expended during the fiscal year in which they are appropriated shall remain available for obligation or expenditure in subsequent fiscal years.

SEC. 302. Section 405 of Public Law 96-205 (94 Stat. 84, 89) is amended by adding at the end thereof the following new sentence: "The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the United States Virgin Islands in the collection of these taxes."

48 USC 1574  
note.

SEC. 303. There are authorized to be appropriated to the Secretary of the Interior, not to exceed \$10,000,000 for grants to the government of the Virgin Islands for improvements in the generation and distribution of water and power, to remain available until expended.

Appropriation  
authorization

SEC. 304. There are authorized to be appropriated to the Secretary of the Interior \$3,000,000 for grants to the government of the Virgin Islands for construction of two juvenile pretrial detention facilities, one on the island of Saint Thomas, and one on the island of Saint Croix, to remain available until expended.

Juvenile  
detention  
facilities.  
Appropriation  
authorization

SEC. 305. Sections 8 (d) and (e) of the Revised Organic Act of the Virgin Islands (68 Stat. 500; 48 U.S.C. 1574 (d) and (e)) are repealed.

SEC. 306. Section 4(d) of the Organic Act of the Virgin Islands of June 22, 1936 (49 Stat. 1808; 48 U.S.C. 1405c(d)) is amended by substituting the word "legislature" for the words "legislative assembly" wherever they appear.

SEC. 307. The following provisions of the Organic Act of the Virgin Islands of June 22, 1936, as amended, are repealed: Section 2 (49 Stat. 1807; 48 U.S.C. 1405a); section 3 (49 Stat. 1807; 48 U.S.C. 1405b); section 5 (49 Stat. 1808; 48 U.S.C. 1405d); section 6 (49 Stat. 1808; 48 U.S.C. 1405e); section 7 (49 Stat. 1808; 48 U.S.C. 1405f); section 8 (49 Stat. 1809; 48 U.S.C. 1405g); section 11 (49 Stat. 1809; 48 U.S.C. 1405j); section 12 (49 Stat. 1809; 48 U.S.C. 1405k); section 13 (49 Stat. 1810; 48 U.S.C. 1405l); section 14 (49 Stat. 1810; 48 U.S.C. 1405m); section 15 (49 Stat. 1810; 48 U.S.C. 1405n); section 16 (49 Stat. 1810; 48 U.S.C. 1405o); section 17 (49 Stat. 1811; 48 U.S.C. 1405p); section 19 (49 Stat. 1811; 48 U.S.C. 1405r); section 22 (49 Stat. 1812; 48 U.S.C. 1405u); section 23 (49 Stat. 1813; 48 U.S.C. 1405v); section 24 (49 Stat. 1813; 48 U.S.C. 1405w); section 25 (49 Stat. 1813; 48 U.S.C. 1405x); section 27 (49 Stat. 1813; 48 U.S.C. 1405z); section 28 (49 Stat. 1814; 48 U.S.C. 1406); section 29 (49 Stat. 1814; 48 U.S.C. 1406a); section 30 (49 Stat. 1814; 48 U.S.C. 1406b); section 31 (49 Stat. 1814; 48 U.S.C. 1406c); section 32 (49 Stat. 1814; 48 U.S.C. 1406d); section 33 (49 Stat. 1815; 48 U.S.C. 1406e); section 34 (49 Stat. 1815; 48 U.S.C. 1406g); and section 39 (49 Stat. 1817; 48 U.S.C. 1406k).

Repeals

48 USC 1405f  
48 USC 1405g.  
48 USC 1405l.

Repeals.

**SEC. 308.** The following statutes are repealed:

(a) That portion of section 1 of the Naval Service Appropriations Act, 1922, of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1393), which reads: "That no person owing allegiance to any country other than the United States of America shall be able to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands: *Provided further*,".

(b) Section 8 of the Act of July 3, 1930 (46 Stat. 948), as amended, by section 1 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1399).

(c) Section 2 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1392b).

(d) The Act of December 20, 1944, as amended (58 Stat. 827; 48 U.S.C. 1409 to 1409j).

(e) The Act of June 30, 1949, as amended (63 Stat. 350; 48 U.S.C. 1407 to 1407i): *Provided*, That nothing in this subsection shall affect the pension rights of former employees of the Virgin Islands Corporation.

(f) The Act of October 29, 1951 (65 Stat. 661; 48 U.S.C. 1409m through 1409o).

(g) Section 4 of the Act of August 19, 1976 (90 Stat. 1195; 48 U.S.C. 1574d).

**SEC. 309.** The Revised Organic Act of the Virgin Islands (68 Stat. 497), as amended, is further amended—

(a) by amending the fourth paragraph of section 11 (68 Stat. 503), as amended (82 Stat. 837, 838), to read: "The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body."; and

(b) by deleting section 17 (68 Stat. 505), as amended (72 Stat. 1094; 76 Stat. 43; 82 Stat. 840; 91 Stat. 1162), in its entirety, and inserting in lieu thereof the following new section 17:

"**SEC. 17.** (a) The following functions, powers, and duties heretofore vested in the government comptroller for the Virgin Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will

48 USC 1541  
note.  
Reports to  
Congress,  
Secretary of  
Interior and  
others  
48 USC 1591.

48 USC 1599.

Transfer of  
functions to  
Inspector  
General.

maintain a satisfactory level of independent audit oversight of the government of the Virgin Islands:

“(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of the Virgin Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Virgin Islands including those pertaining to trust funds held by the government of the Virgin Islands.

Audit.

“(2) The authority to report to the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

Report

“(b) The authority granted in paragraph (a) shall extend to all activities of the government of the Virgin Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

5 USC app

“(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for the Virgin Islands related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.”.

Transfer of funds  
to Inspector  
General.

#### TITLE IV—AMERICAN SAMOA

Sec. 401. Effective January 1, 1983, section 5 of Public Law 95-556 (92 Stat. 2078) is amended by striking out the colon and all that follows and inserting a period in lieu thereof.

Effective date  
48 USC 1735

Sec. 402. Section 501 of Public Law 96-205 (94 Stat. 90) is hereby deleted in its entirety, and inserted in lieu thereof is the following new section 501:

48 USC 1668

“Sec. 501. (a) The Governor of American Samoa shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council of Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report.

Reports to  
Congress,  
Secretary of  
Interior and  
others

“(b) The following functions, powers, and duties heretofore vested in the government comptroller for American Samoa are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a

Transfer of  
functions to  
Inspector  
General.

satisfactory level of independent audit oversight of the government of American Samoa:

Audit.

“(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of American Samoa, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of American Samoa including those pertaining to trust funds held by the government of American Samoa.

Report.

“(2) The authority to report to the Secretary of the Interior and the Governor of American Samoa all failures to collect amounts due the government, and expenditures of funds or uses or property which are irregular or not pursuant to law.

5 USC app.

“(c) The authority granted in paragraph (b) shall extend to all activities of the government of American Samoa, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

“(d) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for American Samoa relating to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.”.

#### TITLE V—PUERTO RICO

33 USC 1282.

SEC. 501. Section 202 of the Federal Water Pollution Control Act (Public Law 97-117) is amended by adding at the end thereof the following new subsection:

Funds,  
availability.  
33 USC 1285.

“(c) Notwithstanding any other provision of law, sums allotted to the Commonwealth of Puerto Rico under section 205 of this Act for fiscal year 1981 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. Such sums and any unobligated funds available to Puerto Rico from allotments for fiscal years ending prior to October 1, 1981, shall be available for obligation by the Administrator of the Environmental Protection Agency only to fund the following systems: Aguadilla, Arecibo, Mayaguez, Carolina, and Camuy Hatillo. These funds may be used by the Commonwealth of Puerto Rico to fund the non-Federal share of the costs of such projects. To the extent that these funds are used to pay the non-Federal share, the Commonwealth of Puerto Rico shall repay to the Environmental Protection Agency such amounts on terms and conditions developed and approved by the Administrator in consultation with the Governor of the Commonwealth of Puerto Rico. Agreement on such terms and conditions, including the payment of interest to be determined by the Secretary of the Treasury, shall be reached prior to the use of these funds for the Commonwealth's non-Federal share. No Federal funds awarded under this provision shall be used to replace local governments funds previously expended on these projects.”.

#### TITLE VI—MISCELLANEOUS

48 USC 1641  
note.

SEC. 601. Section 607 of Public Law 96-597 (94 Stat. 3477, 3483) is amended by deleting subsections (b), (c), and (d) and inserting in lieu thereof the following:



“(b) The Governors of Guam and the Virgin Islands shall, as a condition for a grant pursuant to subsection (a) of this section, submit a plan which is designed to eliminate the respective territory’s general fund deficit by the beginning of fiscal year 1987 to the Secretary of the Interior. Within sixty days after he has received such a plan, the Secretary of the Interior shall transmit the plan, together with his comments and recommendations to the Congress. The plan shall provide for—

Plan, submittal  
to Secretary of  
Interior and  
Congress.

“(1) implementation of an effective budgetary and accounting system;

“(2) realistic revenue and expenditure projections which will progressively reduce current year general fund deficits and result in a balanced general fund budget no later than the beginning of fiscal year 1987;

“(3) financing of accumulated general fund deficits; and

“(4) quarterly goals and timetables for implementing the plan. The plan shall also indicate that the Governor has the necessary authority to implement the plan.

“(c) Not later than thirty days after the close of each quarter which occurs after the plan has been transmitted to the Congress, the respective Governor shall submit a report to the Secretary of the Interior and the Congress describing in detail the success or failure of such territory in meeting the goals and timetables described in such plan.”.

Report to  
Secretary of  
Interior and  
Congress.

Approved October 19, 1982.

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LEGISLATIVE HISTORY—H.R. 5139:

HOUSE REPORT No. 97-387 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-372 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 11, considered and passed House.

Vol. 128 (1982): May 10, considered and passed Senate, amended.

Sept. 9, House concurred in Senate amendment with an amendment.

Sept. 30, Senate concurred in House amendment with amendments.

Oct. 1, House concurred in Senate amendments.

Public Law 97-358  
97th Congress

An Act

Oct. 21, 1982  
[H.R. 6142]

To authorize the Commodity Credit Corporation to process its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts, and for the disposition thereof, and for other purposes.

Surplus  
Agricultural  
Commodities  
Disposal Act of  
1982.  
7 USC 1421 note.

Liquid fuel and  
agricultural  
commodity  
byproducts  
processing  
7 USC 1433b.

Liquid fuel  
availability.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the “Surplus Agricultural Commodities Disposal Act of 1982”.

SEC. 2. The Agricultural Act of 1949 is amended by adding at the end thereof the following new section:

“SEC. 423. (a) Notwithstanding any other provision of law, in order to prevent the accumulation of excessive stocks of agricultural commodities through the price support and stabilization operations of the Commodity Credit Corporation, the Corporation may provide, under terms and conditions established by the Secretary, for processing its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts and (1) for making such liquid fuels available by the Corporation to Federal agencies either to help meet the needs of such agencies for transportation and industrial fuels or to be stored for emergency uses, or (2) for the sale of such liquid fuels by the Corporation in commercial markets. The liquid fuels shall be made available to Federal agencies or sold at a price as determined appropriate by the Secretary, notwithstanding any price restrictions that may be contained in other provisions of law, and in a manner that does not disrupt the prices in commercial markets of liquid fuels derived from agricultural commodities.

“(b) In determining the feasibility of providing for the processing of Commodity Credit Corporation stocks of commodities under subsection (a), the Secretary shall consider the nature of the commodities, and the acquisition, transportation, handling, storage, interest, and other costs associated with acquiring and maintaining such stocks, including the effect of such stocks in depressing commodity prices, as well as the value and utility of such stocks when processed into liquid fuels and agricultural commodity byproducts.

“(c) Not later than one hundred and twenty days after the date of enactment of this section, and annually thereafter, the Secretary shall report to the Congress with respect to the operation of this section, including any recommendations for legislative changes the Secretary finds necessary with respect to the authority provided in this section.”.

Report to  
Congress.

Approved October 21, 1982.

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LEGISLATIVE HISTORY—H.R. 6142

HOUSE REPORT No. 97-874 (Comm. on Agriculture)  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 28, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 43 (1982)  
Oct. 21, Presidential statement.

Public Law 97-359  
97th Congress

An Act

Oct. 22, 1982  
[S. 1698]

To amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States citizens.

Immigration and  
Nationality Act,  
amendment;  
certain children  
of U.S. citizens,  
admission.

8 USC 1151,  
1153.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by inserting at the end thereof the following new subsection:

“(g)(1) Any alien claiming to be an alien described in paragraph (2)(A) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(b), 203(a)(1), or 203(a)(4), as appropriate. After an investigation of the facts of each case the Attorney General shall, if the conditions described in paragraph (2) are met, approve the petition and forward one copy to the Secretary of State.

“(2) The Attorney General may approve a petition for an alien under paragraph (1) if—

“(A) he has reason to believe that the alien (i) was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950 and before the date of the enactment of this subsection, and (ii) was fathered by a United States citizen;

“(B) he has received an acceptable guarantee of legal custody and financial responsibility described in paragraph (4); and

“(C) in the case of an alien under eighteen years of age, (i) the alien’s placement with a sponsor in the United States has been arranged by an appropriate public, private, or State child welfare agency licensed in the United States and actively involved in the intercountry placement of children and (ii) the alien’s mother or guardian has in writing irrevocably released the alien for emigration.

“(3) In considering petitions filed under paragraph (1), the Attorney General shall—

“(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien’s birth in order to make the determinations described in subparagraphs (A) and (C)(i) of paragraph 2; and

“(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

“(4)(A) A guarantee of legal custody and financial responsibility for an alien described in paragraph (2) must—

“(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the ‘sponsor’) who is twenty-one years of age or older, is of good moral character, and is a citizen of the United States or alien lawfully admitted for permanent residence, and

“(ii) provide that the sponsor agrees (I) in the case of an alien under eighteen years of age, to assume legal custody for the alien after the alien’s departure to the United States and until the alien becomes eighteen years of age, in accordance with the laws of the State where the alien and the sponsor will reside, and (II) to furnish, during the five-year period beginning on the date of the alien’s acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien’s acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under section 652 of such Act) for a family of the same size as the size of the alien’s family.

95 Stat. 511.  
42 USC 9902.  
95 Stat. 506  
42 USC 9847.

“(B) A guarantee of legal custody and financial responsibility described in subparagraph (A) may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor or his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title 11, United States Code.”.

Approved October 22, 1982.

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LEGISLATIVE HISTORY—S 1698:

CONGRESSIONAL RECORD, Vol. 128 (1982).

Sept. 28, considered and passed Senate.

Oct. 1, considered and passed House, amended; Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 42 (1982):

Oct. 22, Presidential statement.

Public Law 97-360  
97th Congress

An Act

Oct. 22, 1982  
[H.R. 4828]

To set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries.

Certain surplus  
vessels for  
health services  
to developing  
countries.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds that it is in the national interest to make suitable surplus Government vessels available for use by private nonprofit organizations in providing health education, training, care, and technical assistance as well as other humanitarian services to the peoples of developing countries.

SEC. 2. Within ninety days after the enactment of this Act, the Secretary of Transportation shall designate the vessels listed in section 6 as humanitarian service candidates.

SEC. 3. Except as provided in section 4, the vessels listed in section 6 may not be removed from the National Defense Reserve Fleet.

SEC. 4. The vessels listed in section 6 may be removed from the National Defense Reserve Fleet for either of the following reasons:

(a) When the Secretary determines that one or more of the vessels are required for national security purposes, or

(b) Upon the application of LIFE International, a nonprofit corporation organized under the laws of the District of Columbia, the Secretary may transfer one or more of the vessels to LIFE International upon such terms and conditions as he may prescribe.

SEC. 5. During such time as any one of the vessels is in the possession of LIFE International, it shall be operated as an eleemosynary vessel primarily engaged in providing health education, training, care, technical assistance, and other humanitarian services to the peoples of developing countries. No such vessel may be used for commercial transportation purposes. In the event that LIFE International no longer requires a vessel for the purposes of this Act, that vessel shall be conveyed back to the United States in as good condition as when received, ordinary wear and tear excepted, to the point of original delivery without cost to the United States.

Vessel return to  
U.S.

SEC. 6. This Act shall apply to the following vessels currently held in the National Defense Reserve Fleet:

United States Ship General Nelson M. Walker P2-SE2-R1

United States Ship Donner LSD-20

United States Ship Colonial LSD-18

SEC. 7. This Act shall expire by its terms five calendar years after the date of enactment. Expiration

Approved October 22, 1982.

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**LEGISLATIVE HISTORY—H.R. 4828:**

HOUSE REPORT No. 97-734 (Comm. on Merchant Marine and Fisheries).  
CONGRESSIONAL RECORD, Vol. 128 (1982).

Aug. 17, considered and passed House  
Oct. 1, considered and passed Senate.

Public Law 97-361  
97th Congress

An Act

Oct. 22, 1982  
[H.R. 3787]

To amend sections 10 and 11 of the Act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes".

Sleeping Bear  
Dunes National  
Lakeshore,  
Mich.  
16 USC 460x-9.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 10 of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes", approved October 21, 1970 (16 U.S.C. 460x-x14), is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Any person who is—

"(1) an owner of improved property described in section 11(a)(2) which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary; or

*Post.* p. 1721.

"(2) an occupier of improved property described in section 11(a)(2) which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary, in situations where the fee ownership of such improved property has been heretofore acquired by the United States (whether by donation, purchase, condemnation, exchange or otherwise);

may retain, for a term not to exceed twenty-five years from January 1, 1973, or for a term ending on the death of such owner or occupier, the right of use or occupancy of such property for any residential purpose which is not incompatible with the purposes of this Act or which does not impair the usefulness and attractiveness of the area designated for inclusion. Such owner or occupier must notify the Secretary of any intention to exercise such option within 60 days after receipt of the notice referred to in section 11(c)(3). In situations where the United States has not heretofore acquired fee title to the improved property, the Secretary shall pay to the owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. In situations where the United States has heretofore acquired fee title to the improved property, the occupier may notify the Secretary that such occupier elects to retain continued use and occupancy of such property pursuant to this section, in which event the occupier shall pay to the Secretary the value of the additional right retained, which value shall be based upon the value of the property at the time of its acquisition by the Secretary.

*Post.* p. 1721

"(c) Any deed or other instrument used to transfer title to property, with respect to which a right of use and occupancy is retained under this section, and any instrument evidencing any right of use and occupancy retained by any occupier under this section, shall provide that such property shall not be used for any purpose which is incompatible with purposes of this Act, or which impairs the usefulness and attractiveness of such area, and if it should be so



used, that the Secretary may terminate such right. In the event the Secretary exercises his power of termination under this subsection he shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

“(d)(1) Any owner or occupier of improved property who retains a right of use and occupancy under subsection (b) may convey or lease such right during its existence to a member of such owner or occupier’s immediate family for noncommercial residential purposes which are not incompatible with the purposes of this Act and which do not impair the usefulness and attractiveness of the area designated for inclusion.

Right of use and occupancy.

“(2) Any owner or occupier of improved property who has retained a right of use and occupancy under subsection (b) may terminate such right at any time, and the Secretary shall pay, within 120 days after the date of such termination, to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

Termination.

“(3) As used in this Act, the term ‘member of the immediate family’ means spouse, brother, sister, or child, including persons bearing such relationships through adoption, and step-child.”

“Member of the immediate family.”

SEC. 2. Section 11 of the Act amended by the first section of this Act is amended to read as follows:

“Sec. 11. (a) As used in this Act, the term ‘improved property’ means a detached, one-family dwelling, construction of which—

“Improved property.”  
16 USC 460x-10.

“(1) was begun before December 31, 1964, or

“(2) for the purposes of section 10(b) or 10(d), was begun on or after December 31, 1964, and before October 21, 1970, and has been openly and continuously used, at least during the summer months of each year when similar dwellings in the area are used, as a residential dwelling since such construction was completed, and with respect to the portion of such period after any acquisition of such property by the United States, by the owner, or a member of the immediate family of the owner, of such dwelling on the date of such acquisition,

Ante, p. 1720.

together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated. The amount of land so designated shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed.

“(b) The Secretary may exclude from the land designated under subsection (a) any beach or waters on Lake Michigan, together with so much of the land adjoining any such beach or waters as the Secretary may deem necessary for public access thereto. If the Secretary makes such exclusion, an appropriate buffer zone shall be provided between any residence and the public access or beach.

Beach or waters, exclusion.

“(c)(1) The Secretary may exclude from the category of ‘improved property’ under this Act any property described in subsection (a)(2) which the Secretary determines is in an area required for public use or development in the immediate future. In making any such determination the Secretary shall take into account the proximity of such

Improved property, exclusion.

Right of use and  
occupancy,  
termination.

property to any other improved property, the development or public use of the lakeshore and the related timetable therefor, and the anticipated availability in the immediate future of funds related to such development or public use.

“(2)(A) With respect to any improved property, as defined in subsection (a)(2), with respect to which the occupier has retained a right of use and occupancy under section 10(b), the Secretary may terminate such right 90 days after notifying in writing the occupier, if the Secretary determines that such improved property is needed for public use or development under this Act. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use requirements of the lakeshore and related timetable therefor, and the current availability of funds for the proposed public use or development.

“(B) The Secretary shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

“(3)(A) The Secretary must, within 60 days after the date of enactment of this subsection, notify in writing any owner or occupier of property described in subsection (a)(2) that an option to retain rights with respect to such property exists under section 10(b), whether such property shall be subject to any action by the Secretary under paragraph (1) of this subsection, the nature of such proposed action, the reasons for such proposed action, and the contemplated timetable therefor.

“(B) With respect to any proposed action to be taken under paragraph (2) of this subsection, if the Secretary determines within 60 days after the date of enactment of this subsection, after taking into account timetable and funding projections, that, consistent with the General Management Plan dated October 1979, public use or development is anticipated before 1998 for an area containing any improved property described in subsection (a)(2), the Secretary shall include notice of such determination in any notification under subparagraph (A) of this paragraph. Any failure of the Secretary to so notify an occupier pursuant to this subparagraph shall not preclude the Secretary from taking action under paragraph (2) at some future date.”

16 USC 460x-11

SEC. 3. Section 12 of the Act amended by the first two sections of this Act is amended—

(1) by inserting “(a)” immediately before “In order to facilitate”;

(2) by inserting “Benzie County and within” after “within” in the first sentence thereof; and

(3) by adding the following at the end thereof:

Land exchange.

“(b) Except as provided in subsection (c), any lands in Leelanau County acquired by the Secretary under this section before the date of enactment of this subsection which are within the parkway zone depicted on the map specified in section 2(a) but which are not within, or contiguous to, the lakeshore zone as depicted on such map may be exchanged by the Secretary for other lands of approximately equal value in the lakeshore. If the Secretary is unable to effect such an exchange, such lands may be offered for sale to the person who owned such lands immediately before their acquisition by the Secretary. If such previous owner declines such offer, the Secretary may sell such lands to any buyer. Proceeds from any sale under this

subsection shall be credited to the account established under section 17 of this Act.

“(c) The Secretary is authorized to obtain and administer, according to the provisions of this section, as a part of the lakeshore as Resource Preservation Areas certain interests in the following lands:

Administration.

“(1) Approximately 600 acres designated as ‘Miller Hill’ on the map numbered 634-91,001, dated September 1982.

Miller Hill.

“(2) Approximately 975 acres as designated as ‘Bow Lakes’ on the map numbered 634-91-002, dated September 1982.

Bow Lakes.

“(d)(1) The Secretary may obtain fee title under subsection (e) to lands described in subsection (c)(1), or easements or other restrictive agreements for the preservation of scenic values in such lands.

“(2) The Secretary may obtain fee title under subsection (e) to lands described in subsection (c)(2), or public access easements or other restrictive agreements consistent with use of such lands for educational purposes and for research and interpretation of natural features.

“(e)(1) Except as provided under paragraph (4), the Secretary may obtain fee title or other lesser interests to lands described in subsection (c) only—

“(A) by gift, donation, or bequest;

“(B) by purchase from a willing seller under paragraph (2); or

“(C) as an exercise of a right of first refusal under paragraph

(3).

“(2) The Secretary may negotiate with willing sellers for the transfer of fee title to other lesser interests to lands described in subsection (c). If the Secretary and such willing seller are unable to agree to a fair purchase price, that question may, by mutual consent be submitted to the appropriate United States District Court for adjudication.

“(3) If the owner of any lands described in subsection (c) intends to transfer any interest in such lands except by gift, donation, or bequest, such owner must notify the Secretary of such intention. The Secretary shall have 90 days after notification in which to exercise a right of first refusal to match any bona fide offer to obtain such interest under the same terms and conditions as are contained in such offer. If the Secretary has not exercised such right within 90 days, the owner may transfer such interest.

“(4) Condemnation may be used with respect to any lands described in subsection (c) only—

Condemnation.

“(A) to clear title if necessary for any transfer to the Secretary under this subsection; or

“(B) to purchase fee title or such lesser interest as may be sufficient to prevent significant damage to the scenic, soil, or water resources of the lakeshore. Action under this subparagraph shall be used only after attempts to negotiate a solution to the problem have failed. If the Secretary determines that such attempts have failed, the Secretary shall notify in writing the owner of the property involved of the proposed action to be taken under this subparagraph and the Secretary shall seek an injunction to prevent such resource damage. The Secretary may at any time, and if an injunction is granted under this subparagraph the Secretary shall within 30 days after the date of such injunction, send in writing to the owner of the property the Secretary’s best and final offer for the purchase of such property. If the owner does not accept such offer, the Secretary may file for condemnation. The Secretary must notify the Committee

Notification to congressional committees.

on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any action taken under this subparagraph.

“(f)(1) The Secretary shall enter into discussions with appropriate local government officials to develop mutually agreeable zoning restrictions for the protection of scenic resources with respect to the lands described in subsection (c)(1).

“(2) The Secretary shall enter into discussions with appropriate State and local officials responsible for the administration of the Goemaere-Anderson Wetland Protection Act (Michigan, P.A. 203, 1979) to ensure the protection of natural resources with respect to the lands described in subsection (c)(2).

The Kettle,  
revised map,  
publication in  
Federal  
Register.

“(g) If the owner of the area designated as ‘The Kettle’ in the General Management Plan dated October 1, 1979, and comprising 240 acres, agrees to donate fee title or a scenic easement to, or other less than fee interest in, such area, the lands in such area may be included as a part of the lakeshore upon publication in the Federal Register by the Secretary of a revised map of the lakeshore which includes such lands.

“(h) The Secretary may, upon request in writing by any owner or occupier of lands in the lakeshore, provide services, such as road maintenance, subject to reimbursement.”.

16 USC 460x-14.

SEC. 4. Section 15 of the Act amended by the first three sections of this Act is amended by striking out “\$57,753,000” and inserting in lieu thereof “\$66,153,000”.

SEC. 5. The Act amended by the first four sections of this Act is further amended by adding at the end the following new sections:

Presidential  
recommendations  
to Congress.  
16 USC 460x-15.

“SEC. 16. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or unsuitability as wilderness of any area within the lakeshore. Subject to existing private rights, the areas described in the report prepared by the National Park Service entitled ‘Wilderness Recommendation; Sleeping Bear Dunes National Lakeshore’ dated January, 1981, and recommended for wilderness (approximately 7,128 acres) and for potential wilderness additions (approximately 23,775 acres) shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.”.

Administration.

SEC. 6. No authority under this Act or any amendment made by this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

SEC. 7. For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceilings on appropriations established by the amendments made by this Act shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

Statutory  
ceilings.  
16 USC 460x-14  
note.

Approved October 22, 1982.

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**LEGISLATIVE HISTORY—H.R. 3787:**

HOUSE REPORT No. 97-882 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate, amended; House concurred in Senate amendments

Public Law 97-362  
97th Congress

An Act

Oct. 25, 1982  
[H.R. 4717]

To reduce the amount of LIFO recapture in the case of certain plans of liquidation adopted during 1982, to make adjustments in the net operating loss carryback and carryforward rules for the Federal National Mortgage Association, and for other purposes.

Miscellaneous  
Revenue Act of  
1982.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.**

26 USC 1 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Miscellaneous Revenue Act of 1982”.

26 USC 1 *et seq.*

(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

## TITLE I—TAX PROVISIONS

### SEC. 101. REDUCTION OF LIFO RECAPTURE AMOUNT WITH RESPECT TO CERTAIN PLANS OF LIQUIDATION ADOPTED DURING 1982.

26 USC 336 and  
note, 337, 453.

Subsection (b) of section 403 of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective date for recognition of gain on certain dispositions of LIFO inventories) is amended by adding at the end thereof the following new paragraph:

26 USC 336 note.

“(4) **PLANS OF LIQUIDATION ADOPTED DURING 1982.**—

“(A) **IN GENERAL.**—If—

“(i) a corporation adopts a plan of liquidation during 1982, and

“(ii) such liquidation is completed before January 1, 1984,

then the LIFO recapture amount taken into account with respect to such liquidation under the amendments made by paragraphs (1) and (2) shall be reduced (but not below zero) by \$1,000,000.

“(B) **MORE THAN 1 PLAN OF LIQUIDATION.**—If a corporation (or group of corporations treated as 1 corporation under subparagraph (C)) has more than 1 liquidation which qualifies under subparagraph (A), the dollar amount under such subparagraph shall apply to all such liquidations in the order in which the distributions, sales, and exchanges occur until such dollar amount is used up.

“(C) **APPLICATION TO MEMBERS OF CONTROLLED GROUP.**—

“(i) **IN GENERAL.**—For purposes of this paragraph, all corporations which are competent members of the same controlled group of corporations at any time after December 31, 1981, and before January 1, 1984, shall be treated as 1 corporation.

“(ii) **CORPORATIONS MEMBERS OF MORE THAN 1 GROUP.**—For purposes of this subparagraph, if (but for this clause) a corporation would be a component member of more than 1 controlled group of corporations during the period described in clause (i)—

“(I) if such corporation is a component member of a controlled group on October 1, 1982, such corporation shall be treated only as a component member of such group, or

“(II) if subclause (I) does not apply, such corporation shall be treated as a component member of only the first such controlled group.

“(iii) **CONTROLLED GROUP OF CORPORATIONS DEFINED.**—For purposes of this subparagraph, the term ‘controlled group of corporations’ has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1954, except that—

26 USC 1563.

“(I) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)(1) of such Code, and

“(II) the determination shall be made without regard to subsections (a)(4), (b), and (e)(3)(C) of section 1563 of such Code.

“(D) **TREATMENT OF DEEMED LIQUIDATIONS UNDER SECTION 338.**—If an election under section 338 of the Internal Revenue Code of 1954 is made during 1982 with respect to any qualified stock purchase (within the meaning of such section 338), the requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to the target corporation for purposes of applying section 338 of such Code. For purposes of this paragraph, an election to which subparagraph (A) applies by reason of this subparagraph shall be treated as a sale and a liquidation.”

*Ante*, p. 485.

**SEC. 102. ADJUSTMENTS TO NET OPERATING LOSS CARRYBACK AND CARRYFORWARD RULES FOR FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

(a) **10-YEAR CARRYBACK AND 5-YEAR CARRYFORWARD FOR LOSSES OTHER THAN MORTGAGE DISPOSITION LOSSES.**—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

26 USC 172.

“(H) In the case of a net operating loss of the Federal National Mortgage Association for any taxable year beginning after December 31, 1981—

“(i) such loss, to the extent it exceeds the FNMA mortgage disposition loss (within the meaning of subsection (i)), shall be—

“(I) a net operating loss carryback to each of the 10 taxable years preceding the taxable year of the loss, and

“(II) a net operating loss carryover to each of the 5 taxable years following the taxable year of the loss, and

“(ii) the FNMA mortgage disposition loss shall be—

“(I) a net operating loss carryback to each of the 3 taxable years preceding the taxable year of the loss, and

“(II) a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.”

26 USC 172.

**(b) RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.**—Section 172 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

*Ante*, p 1727.

“(i) **RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.**—

“(1) **FNMA MORTGAGE DISPOSITION LOSS DEFINED.**—

“(A) **IN GENERAL.**—For purposes of subsection (b)(1)(H) and this subsection, the term ‘FNMA mortgage disposition loss’ means for any taxable year the excess (if any) of—

“(i) the losses for such year from the sale or exchange of mortgages, securities, and other evidences of indebtedness, over

“(ii) the gains for such year from the sale or exchange of such assets.

“(B) **FNMA MORTGAGE DISPOSITION LOSS CANNOT EXCEED THE NET OPERATING LOSS FOR THE YEAR.**—The amount of the FNMA mortgage disposition loss for any taxable year shall not be greater than the net operating loss for such year.

“(C) **FORECLOSURE TRANSACTIONS NOT INCLUDED.**—In applying subparagraph (A), any gain or loss which is attributable to a mortgage foreclosure shall not be taken into account.

“(2) **COORDINATION WITH SUBSECTION (b)(2).**—In applying paragraph (2) of subsection (b), a FNMA mortgage disposition loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.”

**(c) CONFORMING AMENDMENTS.**—

(1) Subparagraph (A) of section 172(b)(1) is amended by striking out “(H), and (I)” and inserting in lieu thereof “(H), (I), and (J)”.

(2) Subparagraph (B) of section 172(b)(1) is amended by striking out “and (I)” in the second sentence and inserting in lieu thereof “(H), and (J)”.

(3) Subparagraph (I) of section 172(b)(1), as redesignated by subsection (a), is amended by striking out “subsection (i)” and inserting in lieu thereof “subsection (j)”.

(4) Paragraph (3) of section 172(j), as redesignated by subsection (b), is amended by striking out “subsection (b)(1)(H)” each place it appears and inserting in lieu thereof “subsection (b)(1)(I)”.

26 USC 172 note.

**(d) EFFECTIVE DATE.**—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1981.

#### **SEC. 103. ROLLOVER OF GAIN ON CERTAIN SALES UNDER FCC ORDER WHERE NEWSPAPERS ARE BOUGHT.**

If—

(1) a corporation was ordered by the Federal Communications Commission in January 1975 to divest itself of its newspaper operations or its broadcasting operations,



(2) after the conclusion of the appellate process, the order was again issued in October 1979,

(3) the corporation sold its broadcasting operations before 1982, and

(4) on October 15, 1981, the corporation acquired 100 percent of the stock of a publishing company, then the second sentence of section 1071(a) of the Internal Revenue Code of 1954 shall be applied with respect to sales and exchanges by such corporation before January 1, 1982, which are related to such order as if such second sentence treated stock of any corporation the principal business of which is operating newspapers and related printing operations in the same manner as stock of a corporation operating a radio broadcasting station.

26 USC 1071.

#### SEC. 104. TREATMENT OF CERTAIN SHALE OIL PROPERTY AS ENERGY PROPERTY.

(a) **IN GENERAL.**—Paragraph (7) of section 48(l) is amended by striking out “but does not” and all that follows and inserting in lieu thereof “; except that such term does not include equipment for hydrogenation, refining, or other process subsequent to retorting other than hydrogenation or other process which is applied in the vicinity of the property from which the shale was extracted and which is applied to bring the shale oil to a grade and quality suitable for transportation to and processing in a refinery.”

26 USC 48.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to periods beginning after December 31, 1980, and before January 1, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

26 USC 48 note.

#### SEC. 105. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES.

(a) **COMPUTATION OF ANNUITIES.**—Subsection (m) of section 7448 (relating to computation of annuities) is amended—

26 USC 7448.

(1) by striking out “5 consecutive years” and inserting in lieu thereof “3 consecutive years”, and

(2) by striking out “37½” and inserting in lieu thereof “40”.

(b) **COST-OF-LIVING ADJUSTMENTS.**—Section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended by redesignating subsection (s) as subsection (t), and by inserting after subsection (r) the following new subsection:

“(s) **INCREASES ATTRIBUTABLE TO INCREASED PAY.**—Whenever the salary of a judge under section 7443(c) is increased, each annuity payable from the survivors annuity fund which is based, in whole or in part, upon a deceased judge having rendered some portion of his or her final 18 months of service as a judge of the Tax Court, shall also be increased. The amount of the increase in such an annuity shall be determined by multiplying the amount of the annuity, on the date on which the increase in salary becomes effective, by 3 percent for each full 5 percent by which such salary has been increased.”

(c) **CATCHUP FOR SURVIVORS ANNUITIES IN PAY STATUS ON DATE OF ENACTMENT.**—If an annuity payable under section 7448(h) of the Internal Revenue Code of 1954 (relating to entitlement to annuity) to the surviving spouse of a judge of the United States Tax Court is being paid on the date of the enactment of this Act, then the amount of that annuity shall be adjusted, as of the first day of the first month beginning more than 30 days after such date, to reflect the amount of the annuity which would have been payable if the

26 USC 7448 note.

26 USC 7443. amendment made by subsection (a) applied with respect to increases in the salary of a judge under section 7443(c) of such Code taking effect after December 31, 1963.

26 USC 7448  
note.

**(d) EFFECTIVE DATE.—**

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to annuities payable with respect to judges dying after the date of the enactment of this Act.

(2) **SUBSECTION (b).**—The amendment made by subsection (b) of this section shall apply with respect to increases in the salary of judges of the United States Tax Court taking effect after the date of the enactment of this Act.

**SEC. 106. TAX COURT PROCEDURES.**

**(a) DISPUTES INVOLVING CERTAIN EXCISE TAXES.—**

26 USC 7463.

(1) **IN GENERAL.**—Subsection (a) of section 7463 (relating to disputes involving \$5,000 or less) is amended—

(A) by striking out “or” at the end of paragraph (2),

(B) by adding “or” at the end of paragraph (3), and

(C) by inserting after paragraph (3) the following new paragraph:

“(4) \$5,000 for any 1 taxable period (or, if there is no taxable period, taxable event) in the case of any tax imposed by subtitle D which is described in section 6212(a) (relating to a notice of deficiency),”.

26 USC 7463  
note.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply with respect to petitions filed after the date of the enactment of this Act.

26 USC 7459. **(b) ORAL FINDINGS OF FACT OR OPINIONS.**—Subsection (b) of section 7459 (relating to inclusion of findings of fact or opinions in report) is amended by adding at the end thereof the following new sentence: “Subject to such conditions as the Tax Court may by rule provide, the requirements of this subsection and of section 7460 are met if findings of fact or opinion are stated orally and recorded in the transcript of the proceedings.”

**(c) HEARINGS AND OPINIONS BY COMMISSIONERS IN CASES INVOLVING DEFICIENCIES OF \$5,000 OR LESS.—**

26 USC 7456.

(1) Section 7456 (relating to administration of oaths and procurement of testimony) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) **PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.**—The chief judge may assign—

“(1) any declaratory judgment proceeding,

“(2) any proceeding under section 7463, and

“(3) any other proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds \$5,000, to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by rule provide.”

(2) Subsection (c) of section 7456 is amended by striking out the last sentence.

26 USC 7447. **(d) DESIGNATION OF JUDGES WHO ARE RECEIVING RETIRED PAY.**—Subsection (b) of section 7447 (relating to retirement) is amended by adding at the end thereof the following sentence: “Any judge who retires shall be designated ‘senior judge’.”

**SEC. 107. WITHHOLDING STATEMENTS FOR TERMINATED EMPLOYEES.**

(a) **IN GENERAL.**—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking out “on the day on which the last payment of remuneration is made” and inserting in lieu thereof “within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31”.

26 USC 6051.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to employees whose employment is terminated after the date of the enactment of this Act.

26 USC 6051  
note.**SEC. 108. WITHHOLDING OF STATE INCOME TAX FROM THE WAGES OF CERTAIN SEAMEN.**

Section 12 of the Act of March 4, 1915 (38 Stat. 1169; 46 U.S.C. 601), is amended by inserting before the period at the end of the second proviso the following: “, but nothing in this section shall prohibit any such withholding of the wages of any seaman who is employed in the coastwise trade between ports in the same State if such withholding is pursuant to a voluntary agreement between such seaman and his employer”.

**SEC. 109. WAGERING PERMITTED UNDER STATE LAW.**

(a) **TAX ON WAGERS.**—Subsection (a) of section 4401 (relating to wagers) is amended to read as follows:

26 USC 4401.

“(a) **WAGERS.**—

“(1) **STATE AUTHORIZED WAGERS.**—There shall be imposed on any wager authorized under the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

“(2) **UNAUTHORIZED WAGERS.**—There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager.”

(b) **OCCUPATIONAL TAX.**—Section 4411 (relating to imposition of tax) is amended to read as follows:

26 USC 4411.

**“SEC. 4411. IMPOSITION OF TAX.**

“(a) **IN GENERAL.**—There shall be imposed a special tax of \$500 per year to be paid by each person who is liable for the tax imposed under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

“(b) **AUTHORIZED PERSONS.**—Subsection (a) shall be applied by substituting ‘\$50’ for ‘\$500’ in the case of—

“(1) any person whose liability for tax under section 4401 is determined only under paragraph (1) of section 4401(a), and

“(2) any person who is engaged in receiving wagers only for or on behalf of persons described in paragraph (1).”

(c) **EFFECTIVE DATES.**—

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall take effect on January 1, 1983.

26 USC 4401  
note.

(2) **SUBSECTION (b).**—The amendment made by subsection (b) shall take effect on July 1, 1983.

26 USC 4411  
note.

## TITLE II—OTHER PROVISIONS

### SEC. 201. UNEMPLOYMENT BENEFITS PAID TO EX-SERVICE MEMBERS.

(a) **ELIGIBILITY REQUIREMENTS.**—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

“(1) ‘Federal service’ means active service (not including active duty in a reserve status unless for a continuous period of 180 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

“(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

“(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

“(ii) the individual was discharged or released before completing such term of active service—

“(I) for the convenience of the Government under an early release program,

“(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

“(III) because of hardship, or

“(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more.”

(b) **PERIOD FOR WHICH BENEFITS PAYABLE.**—Section 8521 of such title 5 is amended by adding at the end thereof the following new subsection:

“(c)(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released.

“(2) The aggregate amount of compensation payable on the basis of Federal service (as defined in subsection (a)) to any individual with respect to any benefit year shall not exceed 13 times the individual's weekly benefit amount for total unemployment.”

5 USC 8521 note.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to terminations of service on or after July 1, 1981, but only for purposes of determining eligibility for benefits for weeks of unemployment beginning after the date of the enactment of this Act.

(2) **TRANSITIONAL RULE.**—The amendments made by this section shall not apply to the extent that such amendments would (but for this paragraph) reduce the amount of compensation payable in the case of benefit years established before the date of the enactment of this Act.

### SEC. 202. COMPENSATION PAID TO EX-SERVICE MEMBERS CHARGED TO DEPARTMENT OF DEFENSE.

(a) **GENERAL RULE.**—

(1) Subsections (b) and (c)(1) of section 8509 of title 5, United States Code, are each amended by striking out “subchapter” each place it appears and inserting in lieu thereof “chapter”.

(2) Section 8509 of such title 5 is amended by adding at the end thereof the following new subsection:

“(h) For purposes of this section, the term ‘Federal service’ includes Federal service as defined in section 8521(a).”

*Ante*, p 1732.

(b) EFFECTIVE DATE.—

5 USC 8509 note.

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on October 1, 1983.

(2) TREATMENT OF PREVIOUSLY APPROPRIATED FUNDS.—All funds appropriated which are available (on October 1, 1983) for the making of payments to States under chapter 85 of title 5, United States Code, on the basis of Federal service (as defined in section 8521(a) of such title 5) or for the making of payments under such chapter on the basis of such service in States which do not have in effect an agreement under such chapter, shall be transferred on such date to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such account as provided by section 8509 of such title 5.

5 USC 8501  
*et seq.*

42 USC 1109.

#### SEC. 203. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 is amended by striking out “during 1981” and inserting in lieu thereof “after December 31, 1980, and before January 1, 1983”.

26 USC 3306  
note.

#### SEC. 204. ELIGIBILITY REQUIREMENTS FOR TRADE ADJUSTMENT ASSISTANCE.

Section 2514(a)(2)(A) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 889) (relating to the effective date of amendments relating to group eligibility requirements for adjustment assistance for workers under the Trade Act of 1974) is amended by striking out “the 180th day after the date of the enactment of this Act” and inserting in lieu thereof “October 1, 1983”.

19 USC 2291  
note.

19 USC 2101.

Approved October 25, 1982.

#### LEGISLATIVE HISTORY—H.R. 4717:

HOUSE REPORTS: No. 97-405 (Comm. on Ways and Means) and No. 97-929 (Comm. of Conference).

#### CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

Dec. 16, considered and passed Senate, amended.

Vol. 128 (1982): Mar. 16, House agreed to Senate amendment with amendment.

Oct. 1, House and Senate agreed to conference report.

Public Law 97-363  
97th Congress

An Act

Oct. 25, 1982  
[H.R. 5879]

To amend chapter 2 of title IV of the Immigration and Nationality Act to extend for one year the authorization of appropriations for refugee assistance, and for other purposes.

Refugee  
Assistance  
Amendments of  
1982.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

8 USC 1101 note.

**SECTION 1.** This Act may be cited as the “Refugee Assistance Amendments of 1982”.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

**SEC. 2.** Subsection (a) of section 414 of the Immigration and Nationality Act (8 U.S.C. 1524) is amended to read as follows:

“(a)(1) There are hereby authorized to be appropriated for fiscal year 1983 such sums as may be necessary for the purpose of carrying out the provisions (other than those described in paragraphs (2) and (3)) of this chapter.

8 USC 1522.

“(2) There are hereby authorized to be appropriated for fiscal year 1983 \$100,000,000 for the purpose of providing services with respect to refugees under section 412(c).

“(3) There are hereby authorized to be appropriated for fiscal year 1983 \$14,000,000 for the purpose of carrying out section 412(b)(5).”.

CONGRESSIONAL INTENT RESPECTING REFUGEE ASSISTANCE

**SEC. 3.** (a) Section 412(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1522(a)(1)) is amended—

(1) by redesignating clauses (A) through (D) as clauses (i) through (iv), respectively,

(2) by inserting “(A)” after “(1)”, and

(3) by adding at the end the following new subparagraph:

“(B) It is the intent of Congress that in providing refugee assistance under this section—

“(i) employable refugees should be placed on jobs as soon as possible after their arrival in the United States;

“(ii) social service funds should be focused on employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services; and

“(iii) local voluntary agency activities should be conducted in close cooperation and advance consultation with State and local governments.”.

(b) Section 413 of such Act (8 U.S.C. 1523) is amended by adding at the end the following new subsection:

Study.

“(c)(1) The Director shall study the feasibility and advisability of providing—

“(A) for interim support (to refugees who are not employment-ready upon arrival in the United States) for a period determined on a case-by-case basis through a mechanism (other than public assistance) that recognizes the primary role of case management through voluntary agencies at the local level, and

“(B) a mechanism (other than one associated with the provision of cash assistance) through which refugees, requiring medical (but not cash) assistance, are provided medical assistance, and shall report to Congress on the study not later than January 1, 1983.

Report to Congress.

“(2) The Director shall study and report to the Congress, not later than September 30, 1983, on the feasibility and advisability of providing for the establishment of special refugee centers in various locations at which refugees would receive orientation, training, and education in English and in the legal governmental, monetary and economic systems, history, culture, and geography of the United States before resettlement in the United States.”.

Study and report to Congress.

#### PROGRAM ADMINISTRATION

SEC. 4. (a) Paragraph (2) of section 412(a) of the Immigration and Nationality Act (8 U.S.C. 1522(a)) is amended—

(1) by inserting “(A)” after “(2)”, and

(2) by adding at the end the following new subparagraphs:

“(B) The Director shall develop and implement, in consultation with representatives of voluntary agencies and State and local governments, policies and strategies for the placement and resettlement of refugees within the United States.

“(C) Such policies and strategies, to the extent practicable and except under such unusual circumstances as the Director may recognize, shall—

“(i) insure that a refugee is not initially placed or resettled in an area highly impacted (as determined under regulations prescribed by the Director after consultation with such agencies and governments) by the presence of refugees or comparable populations unless the refugee has a spouse, parent, sibling, son, or daughter residing in that area, and

“(ii) provide for a mechanism whereby representatives of local affiliates of voluntary agencies regularly (not less often than quarterly) meet with representatives of State and local governments to plan and coordinate in advance of their arrival the appropriate placement of refugees among the various States and localities.”.

(b) Paragraph (3) of such section is amended by inserting after the first sentence the following new sentence: “The Director shall compile and maintain data on secondary migration of refugees within the United States and, by State of residence and nationality, on the proportion of refugees receiving cash or medical assistance described in subsection (e).”.

#### INITIAL RESETTLEMENT PROGRAM

SEC. 5. Section 412(b) of the Immigration and Nationality Act (8 U.S.C. 1522(b)) is amended—

(1) by striking out the last sentence of paragraph (1)(A);

(2) by adding at the end of paragraph (1)(A) the following new sentences: “Funds provided to agencies under such grants and

Grants and contracts.

contracts may only be obligated or expended during the fiscal year in which they are provided (or the subsequent fiscal year or such subsequent fiscal period as the Federal contracting agency may approve) to carry out the purposes of this subsection. Such grants and contracts shall provide that the agency shall provide (directly or through its local affiliate) notice to the appropriate county or other local welfare office at the time that the agency becomes aware that a refugee is offered employment and provide notice to the refugee that such notice has been provided. Such grants and contracts shall also provide that the agency shall assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area.”;

(3) by adding at the end the following new paragraph:

“(5) The Director is authorized to make grants to, and enter into contracts with, State and local health agencies for payments to meet their costs of providing medical screening and initial medical treatment to refugees.”; and

Annual audits.

(4) by adding after such paragraph the following new paragraph:

“(6) The Comptroller General shall conduct an annual audit of funds expended under grants and contracts made under this subsection.”.

#### CASH AND MEDICAL ASSISTANCE

SEC. 6. (a) Paragraph (1) of section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) is amended by striking out “up to” before “100 per centum”.

(b) Paragraph (2) of such section is amended—

(1) by striking out the semicolon at the end of subparagraph (B) and all that follows through the end of such paragraph and inserting in lieu thereof a period;

(2) by striking out “and” at the end of subparagraph (A);

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, by inserting “(A)” after “(2)”, and by inserting after clause (i) (as so redesignated) the following new clause:

“(ii) on the refugee’s participation in any available and appropriate social service program (funded under subsection (c)) providing job or language training in the area in which the refugee resides; and”; and

(4) by adding at the end the following:

Hearing.

“Such cash assistance provided to such a refugee shall be terminated (after opportunity for an administrative hearing) with the month in which the refugee refuses such an appropriate offer of employment or refuses to participate in such an available and appropriate social service program.

“(B) Cash assistance shall not be made available to refugees who are full-time students in institutions of higher education (as defined by the Director after consultation with the Secretary of Education).”.

(c) Such section is further amended by adding at the end the following new paragraph:

“(6) As a condition for receiving assistance, reimbursement, or a contract under this subsection and notwithstanding any other provi-



sion of law, a State or agency must provide assurances that whenever a refugee applies for cash or medical assistance for which assistance or reimbursement is provided under this subsection, the State or agency must notify promptly the agency (or local affiliate) which provided for the initial resettlement of the refugee under subsection (b) of the fact that the refugee has so applied.”.

#### STUDY OF NEED FOR REFUGEE IMPACT AID PROGRAM

SEC. 7. Section 413 of the Immigration and Nationality Act (8 U.S.C. 1522), as amended by section 3(b) of this Act, is further amended by adding after subsection (c) the following new subsection:

*Ante*, p. 1734  
8 USC 1523.

“(d) The Director shall study, and report to Congress not later than January 1, 1983, on the feasibility and advisability of establishing a program providing payments to States, counties, cities, and other units of local government to reflect a net increase in outlays on educational, health, criminal justice, and other governmental services resulting directly from the initial resettlement of refugees in, or secondary migration of refugees to, that State, county, city, or other unit. Such study shall include an examination of the extent to which the programs and assistance described in section 412 (particularly under subsection (c) thereof) provide for such payments to impacted areas and the extent to which increased outlays in these impacted areas are offset by the provision of additional Federal funds under other programs or authority or by increased taxes, revenues, or other economic activity resulting from refugee resettlement in, or migration, to these areas.”.

Study and report  
to Congress.

8 USC 1522.

#### EFFECTIVE DATE

SEC. 8. The amendments made by—

8 USC 1522 note.

(1) sections 3(b), 4, 5(3), 5(4), 6(a), and 7 take effect on October 1, 1982, and

(2) sections 5(2), 6(b), and 6(c) apply to grants and contracts made, and assistance furnished, on or after October 1, 1982.

Approved October 25, 1982.

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#### LEGISLATIVE HISTORY—H.R. 5879:

HOUSE REPORT No. 97-541 (Comm. on the Judiciary).

SENATE REPORT No. 97-638 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 21, 22, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 97-364  
97th Congress

An Act

Oct. 25, 1982  
[H.R. 6170]

To amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs and to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals.

Alcohol traffic  
safety programs  
and national  
driver register

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—ALCOHOL TRAFFIC SAFETY PROGRAMS

SEC. 101. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

Grants.  
23 USC 408.

“§ 408. Alcohol traffic safety programs

“(a) Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

“(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

Federal share  
payments.

“(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

“(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol traffic safety program adopted by the State pursuant to subsection (a);

“(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

“(3) in the third fiscal year the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

“(d)(1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

23 USC 402.

“(2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20

per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

23 USC 402.

“(e)(1) For purposes of this section, a State is eligible for a basic grant if such State provides—

State eligibility.

“(A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver’s license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;

“(B) for a mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than forty-eight consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period;

“(C) that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

“(D) for increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

“(2) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition provides for some or all of the criteria established by the Secretary under subsection (f).

“(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements—

Effective  
program  
criteria

“(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

“(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

“(3) for the impoundment of any vehicle operated on a State road by any individual whose driver’s license is suspended or revoked for an alcohol-related driving offense;

“(4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officials and are financially self-sufficient;

“(5) for the grant of presentence screening authority to the courts;

“(6) for the setting of the minimum drinking age in such State at twenty-one years of age;

“(7) for the consideration of and, where consistent with other provisions of State law and constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section.

Appropriation  
authorization.

23 USC 101 *et*  
*seq.*

“(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, \$25,000,000 for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.”.

(b) The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

“408. Alcohol traffic safety programs.”.

Regulations,  
publication in  
Federal  
Register.  
23 USC 408 note.

*Ante*, p. 1738.  
Disapproval by  
Congress.

(c) The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 408 of title 23, United States Code, not later than November 1, 1982. The Secretary shall allow public comment and hold public hearings on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued, published in the Federal Register, and transmitted to Congress before February 1, 1983. To the extent such regulations relate to the making of basic grants under such section 408, such regulations shall become effective on the date on which they are published in the Federal Register. To the extent such regulations relate to the making of supplemental grants under such section 408, such regulations shall become effective April 1, 1983, unless before such date either House of Congress by resolution disapproves such regulations to such extent. If such regulations are so disapproved by either House of Congress, the Secretary shall not obligate for such supplemental grants any amount authorized to carry out such section 408 for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of this Act.

National Driver  
Register Act of  
1982.

## TITLE II—NATIONAL DRIVER REGISTER

### SHORT TITLE

23 USC 401 note.

SEC. 201. This title may be cited as the “National Driver Register Act of 1982”.

### DEFINITIONS

23 USC 401 note.

SEC. 202. For purposes of this title, the term—

(1) “alcohol” has the meaning given such term by the Secretary of Transportation under regulations prescribed by the Secretary;

(2) “chief driver licensing official” means the official in each State who is authorized to (A) maintain any record regarding any motor vehicle operator’s license issued by such State; and (B) grant, deny, revoke, suspend, or cancel any motor vehicle operator’s license issued by such State;

(3) “controlled substance” has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(4) “highway” means any road or street;

(5) “motor vehicle” means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway, except that such term does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail or rails;

(6) “motor vehicle operator’s license” means any license issued by a State which authorizes an individual to operate a motor vehicle on a highway;

(7) “participating State” means any State which has notified the Secretary of its participation in the Register system, pursuant to section 204 of this title;

(8) “Register” and “Register system” mean the National Driver Register established under section 203 of this title;

(9) “Secretary” means the Secretary of Transportation;

(10) “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(11) “State of record” means any State which has transmitted to the Secretary, pursuant to section 205 of this title, any report regarding any individual who is the subject of a request for information made under section 206 of this title.

#### ESTABLISHMENT OF REGISTER

SEC. 203. (a) The Secretary shall, as soon as practicable after the date of enactment of this title, establish and thereafter maintain a Register, to be known as the National Driver Register, to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The Register shall contain an index of the information that is reported to the Secretary under section 205 of this title, and shall be designed to enable the Secretary, either electronically or, until such time as all States are capable of participating electronically, through the United States mails, to—

23 USC 401 note.

Information index.

(1) receive information submitted under section 205(a) of this title by the chief driver licensing official of any State of record;

(2) receive any request for information made by the chief driver licensing official of any participating State under section 206 of this title;

(3) refer such request to the chief driver licensing official of any State of record; and

(4) relay without interception of the actual information to the chief driver licensing official of a participating State any information provided by any chief driver licensing official of a State of record in response to such request.

- (b) The Secretary shall not be responsible for the accuracy of any information relayed to the chief driver licensing official of any participating State, except that the Secretary shall maintain the Register in a manner that ensures against any inadvertent alteration of information during any relay.
- Final rule (c)(1) The Secretary shall, within eighteen months after the date of enactment of this title, promulgate a final rule which provides for procedures for the orderly transition from the system regarding the motor vehicle driving records of individuals provided in Public Law 86-660 (74 Stat. 526) to the Register established under subsection (a) of this section.
- 23 USC 313 note. (2) The Secretary shall not maintain in the Register any report or information which was compiled under the provisions of Public Law 86-660 (74 Stat. 526) and was transferred to the Register after (A) the date the State of record removes it from the State's file; (B) seven years after the date such report or information is entered into the Register; or (C) the date of establishment of a fully electronic Register system, whichever is earlier. Such report or information shall be disposed of in accordance with the provisions of chapter 33 of title 44, United States Code.
- 44 USC 3301 *et seq.*  
Erroneous information. (3) If the chief driver licensing official of any participating State finds that information which has been transmitted for inclusion in the Register under this section is erroneous or relates to a conviction of a traffic offense which is subsequently reversed, such official shall immediately notify the Secretary of the error. The Secretary shall provide for the immediate deletion from the Register of such material.
- (d) The Secretary shall assign to the administration of this title such personnel as may be necessary to ensure the effective functioning of the Register system.
- (e) The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this title.

#### STATE PARTICIPATION

- 23 USC 401 note SEC. 204. (a) Any State may become a participating State under this title by notifying the Secretary of its intention to be bound by the provisions of section 205 of this title.
- Status termination. (b) Any participating State may terminate its status as a participating State under this title by notifying the Secretary of its withdrawal from participation in the Register system.
- (c) Any notification made by a State under subsection (a) or (b) of this section shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

#### REPORTS BY CHIEF DRIVER LICENSING OFFICIALS

- 23 USC 401 note. SEC. 205. (a) The chief driver licensing official in each participating State shall, as soon as practicable after the date of enactment of this title, transmit to the Secretary a report containing the information required in subsection (b) of this section regarding any individual—
- (1) who is denied a motor vehicle operator's license by such State for cause;
  - (2) whose motor vehicle operator's license is canceled, revoked, or suspended by such State, for cause; or

(3) who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(b) Any report regarding an individual which is transmitted by a chief driver licensing official pursuant to subsection (a) of this section shall contain— Required information.

(1) the legal name, date of birth (including day, month, and year), sex, and (at the Secretary's discretion) the height, weight, eye and hair color of such individual;

(2) the name of the State transmitting such information; and

(3) the social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number);

except that any report concerning an occurrence specified in subsection (a) (1), (2), or (3) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(c) Any report required to be transmitted by a chief driver licensing official of a State under subsection (a) of this section shall be transmitted to the Secretary—

(1) not later than thirty-one days after receipt by a State motor vehicle department of any information specified in subsection (b) (1), (2), or (3) of this section which is the subject of such report, if the date of such occurrence is after the date on which such State becomes a participating State; or

(2) not later than the expiration of the six-month period following the date on which such State becomes a participating State, if such report concerns an occurrence specified in subsection (a) (1), (2), or (3) of this section that occurs during the two-year period preceding such date.

(d) Nothing in this section shall be construed to require any State to report any information concerning any occurrence which occurs before the two-year period preceding the date on which the State becomes a participating State.

#### ACCESSIBILITY OF REGISTER INFORMATION

SEC. 206. (a)(1) For purposes of fulfilling his duties with respect to driver licensing, driver improvement, or highway safety, the chief driver licensing official of any participating State may, on and after the date of enactment of this title, request the Secretary to refer electronically or through the United States mails any request for 23 USC 401 note.

information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

(2) The Secretary shall electronically or through the United States mails relay to any chief driver licensing official of a participating State who requests information under paragraph (1) of this subsection any information received from the chief driver licensing official of any State of record regarding an individual in accordance with paragraph (1) of this subsection, except that the Secretary may refuse to relay any information to any such official who is the chief driver licensing official of a participating State which is not in compliance with the provisions of section 205 of this title.

(b)(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by the Board or Bureau of Motor Carrier Safety, may request the chief driver licensing official of a State to obtain information under subsection (a) of this section regarding such individual. The Chairman and Administrator may receive any such information.

Requests by  
individuals  
or employers.

(2) Any individual who is employed as a driver of a motor vehicle or who seeks employment as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information under subsection (a) of this section to his employer or prospective employer. An employer or prospective employer may receive such information regarding any such individual, and shall make that information available to the affected individual. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than three years before the date of such request.

(3) Any individual, in order (A) to determine whether the Register is providing any data regarding him or the accuracy of any such data; or (B) to obtain a certified copy of data provided through the Register regarding him, may request the chief driver licensing official of a State to obtain information regarding him under subsection (a) of this section.

(4) Any request made under this subsection shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

(c) Any request for, or receipt of, information by means of the Register shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal and State law, except that—

(1) the Secretary shall not relay, or otherwise transmit, information specified in section 205(b) (1) or (3) of this title to any person not authorized by this section to receive such information;

(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) of this section to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

(3) any receipt of information by any person authorized by this section to receive information shall be considered to be a disclosure for purposes of section 552a(c) of title 5, United States Code, except that the Secretary shall not be required to retain



the accounting made under paragraph (1) of such section for more than a seven-year period after the date of such disclosure.

#### PILOT TEST PROGRAM

SEC. 207. (a) The Secretary shall design, within eighteen months after the date of enactment of this title, and implement, within two years after the date of enactment of this title, a pilot test program for the purpose of demonstrating the potential effectiveness of a system for electronic referral and relay of information regarding the motor vehicle driving records of individuals. 23 USC 401 note.

(b) The Secretary shall solicit the participation of States which are interested in participating in such program and shall, within thirty months after the date of enactment of this title, select four States to participate in the program.

(c)(1) The Secretary shall select States in accordance with the provisions of subsection (b) of this section from among States which have in effect, on the date of selection, an intrastate online driver licensing system capable of electronically transmitting information regarding the motor vehicle driving records of individuals.

(2) The Secretary shall select only those States which indicate a willingness to participate in a comprehensive mechanical and programmatic evaluation of systems for the electronic transfer of information.

(3) The Secretary shall ensure that the selection made pursuant to subsection (b) of this section is representative of varying geographical and population characteristics of the Nation.

(4) No State shall participate in the program unless it agrees to assist in providing information to other States regarding the electronic transfer of the motor vehicle driving records of individuals.

(d) Within two years after the date of enactment of this title, the Secretary shall begin the pilot program authorized by subsection (a) of this section. Such program shall continue for a period of one year. In carrying out the program, the Secretary shall utilize different computer technologies and equipment in order to determine which technology and equipment is most effective for the electronic transfer of the motor vehicle driving records of individuals. The Secretary shall determine which systems and devices will best interconnect with systems and devices used in the States which are participating in the pilot program, as well as those used in other States.

Computer  
technolo-  
gies and  
equipment

(e) Any equipment or device which is provided to a State for use in the pilot program conducted under this section may, in the discretion of the Secretary, remain with the State following the conclusion of the pilot program.

(f) Not later than one year after the conclusion of the pilot program, the Secretary shall submit to the Congress a report on the program. Such report shall include an evaluation of the technology utilized during the program, together with an explanation of the nature and degree of State participation in the program. The report shall also contain an evaluation of achievements of the pilot program, as well as a projection of accomplishments which might result from the acquisition of electronic transfer equipment and methods by States other than those which participated in the pilot program.

Report to  
Congress.

## CRIMINAL PENALTIES

23 USC 401 note.

SEC. 208. (a) Any person, other than an individual described in section 206(b)(4) of this title, who receives under section 206 of this title information specified in section 205(b) (1) or (3) of this title (the disclosure of which is not authorized by section 206 of this title), and who, knowing that disclosure of such information is not authorized, willfully discloses such information, shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(b) Any person who knowingly and willfully requests or under false pretenses obtains information specified in section 205(b) (1) or (3) of this title from any person who receives such information under section 206 of this title shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

## ADVISORY COMMITTEE

23 USC 401 note.

SEC. 209. (a) There hereby is established a National Driver Register Advisory Committee, which shall advise the Secretary concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records.

Membership

(b) The Advisory Committee shall consist of fifteen members, appointed by the Secretary, as follows:

(1) three members from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, and who are not employees of the Federal Government or of any State; and

(2) three members from among groups outside the Government which represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations; and

(3) nine members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

Office terms.

(c)(1) Except as provided in paragraph (2) and paragraph (3), each member of the Advisory Committee shall be appointed for a term of three years.

(2) Of the members first appointed—

(A) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection (b)(3) shall be appointed for a term of one year;

(B) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection (b)(3) shall be appointed for a term of two years; and

(C) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection (b)(3) shall be appointed for a term of three years;

as designated by the Secretary at the time of appointment.

Vacancies.

(3) Any vacancy in the Advisory Committee shall be filled in the same manner as original appointments. Any member appointed to fill any vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term until his successor has taken office.

(d) The members of the Advisory Committee shall serve without compensation, but the Secretary is authorized to reimburse such members for all reasonable travel expenses incurred by them in attending the meetings of the Advisory Committee. Compensation

(e)(1) The Advisory Committee shall meet not less than once each year.

(2) The Advisory Committee shall elect a Chairman and a Vice Chairman from among the members of the Advisory Committee.

(3) Eight members of the Advisory Committee shall constitute a quorum. Quorum

(4) The Advisory Committee shall meet at the call of the Chairman or a majority of the members of the Advisory Committee.

(f) The Advisory Committee may receive from the Secretary such personnel, penalty mail privileges, and similar services, as the Secretary considers necessary to assist it in performing its duties and functions under this section.

(g) Not less than once each year, the Advisory Committee shall prepare and submit to the Secretary a report concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records. Such report shall include any recommendations of the Advisory Committee for changes in the Register system. Report

(h) The Advisory Committee shall be exempt from the requirements of section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

#### REPORT BY SECRETARY

SEC. 210. Not later than the expiration of the four-year period following the date of enactment of this title, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the extent and level of participation in the Register system, and the effectiveness of such system in the identification of unsafe drivers. Such report shall include any recommendations of the Secretary concerning the desirability of extending the authorization of appropriations for this title beyond the period of authorization provided in section 211 of this title. Submittal to Congress.  
23 USC 401 note.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 211. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, for expenses incurred in the establishment of the Register system under this title not to exceed \$2,000,000. 23 USC 401 note.

(b) There are authorized to be appropriated to carry out the provisions of this title and the provisions of Public Law 86-660 (74

23 USC 313 note. Stat. 526) not to exceed \$1,000,000 for fiscal year 1983, not to exceed \$1,300,000 for fiscal year 1984, not to exceed \$1,600,000 for fiscal year 1985, not to exceed \$1,600,000 for fiscal year 1986, and not to exceed \$1,600,000 for fiscal year 1987.

(c) Funds authorized under this section shall remain available until expended.

Approved October 25, 1982.

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LEGISLATIVE HISTORY—H.R. 6170 (S. 2158):

HOUSE REPORT No. 97-867 (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-360 accompanying S. 2158 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 11, S. 2158 considered and passed Senate.

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 43 (1982):

Oct. 25, Presidential statement.

Public Law 97-365  
97th Congress

An Act

To increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States

Oct 25, 1982

[H R 4613]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Debt Collection Act of 1982".*

Debt Collection  
Act of 1982  
5 USC 5514 note.

AMENDMENTS TO THE PRIVACY ACT

SEC. 2. (a) Section 552a(b) of title 5, United States Code, is amended—

- (1) by striking out "or" at the end of paragraph (10);
- (2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and
- (3) by adding at the end thereof the following new paragraph:  
"(12) to a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d))."

*Infra.*

(b) Section 552a(m) of such title is amended—

- (1) by inserting "(1)" immediately after "(m)"; and
- (2) by adding at the end thereof the following new paragraph:  
"(2) A consumer reporting agency to which a record is disclosed under section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)) shall not be considered a contractor for the purposes of this section."

AMENDMENT TO THE FEDERAL CLAIMS COLLECTION ACT OF 1966

SEC. 3. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever the head of an agency attempts to collect a claim of the United States under subsection (a) of this section, or under any other statutory authority except the Internal Revenue Code of 1954, the head of the agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

Information  
disclosure.

26 USC 1 *et seq.*

"(A) the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and determined that such claim is valid and overdue;

"(C) the head of the agency has sent a written notice to the individual informing such individual—

"(i) that the payment of the claim is overdue;

"(ii) that the agency intends to disclose to a consumer reporting agency, within not less than sixty days after

sending such notice, that the individual is responsible for such claim;

“(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

“(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and to administrative appeal or review with respect to the claim;

“(D) such individual has not—

“(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to the head of the agency and is in a written form signed by such individual; or

“(ii) filed for review of such claim under paragraph (2) of this subsection;

“(E) the agency has established procedures (i) for promptly disclosing, to each consumer reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim, (ii) for promptly verifying or correcting, as appropriate, information concerning the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed, and (iii) for obtaining satisfactory assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law governing the provision of consumer credit information; and

“(F) the information disclosed to the consumer reporting agency is limited to (i) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (ii) the amount, status, and history of the claim, and (iii) the agency or program under which the claim arose.

Review of  
individual  
obligation.

“(2) Prior to a disclosure to any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law, the head of the agency shall, upon request of any individual alleged by the agency to be responsible for the claim, provide for the review of the obligation of such individual, including an opportunity for reconsideration of the initial decision concerning the claim.

“(3) If an agency does not have a current address for an individual for the purpose of sending the notice required by paragraph (1)(C), the agency shall take reasonable action to locate the individual prior to disclosing any information to a consumer reporting agency under paragraph (1).

Definitions.

“(4) For purposes of this subsection—

“(A) the term ‘consumer reporting agency’ means—

“(i) a consumer reporting agency within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

“(ii) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this subparagraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies;

“(B) the term ‘system of records’ has the meaning given such term under section 552a(a)(5) of title 5, United States Code; and  
“(C) the term ‘head of an agency’ includes a designee of the head of an agency.”.

REQUIREMENT THAT APPLICANT FURNISH TAXPAYER IDENTIFYING  
NUMBER

SEC. 4. (a) IN GENERAL.—Each Federal agency administering an included Federal loan program shall require any person applying for a loan under such program to furnish such person’s taxpayer identifying number.

26 USC 6103  
note.

(b) DEFINITIONS.—For purposes of this section—

(1) INCLUDED FEDERAL LOAN PROGRAM.—The term “included Federal loan program” has the meaning given to such term by subparagraph (C) of section 6103(1)(3) of the Internal Revenue Code of 1954 (as added by section 7 of this Act).

(2) TAXPAYER IDENTIFYING NUMBER.—The term “taxpayer identifying number” has the meaning given to such term by section 6109 of such Code.

26 USC 6109.

SALARY OFFSET

SEC. 5. (a) Subsection (a) of section 5514 of title 5, United States Code, is amended to read as follows:

“(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned.

“(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

Written notice.

“(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

“(B) an opportunity to inspect and copy Government records relating to the debt;

Record  
inspection.

“(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or

Written  
agreement.

- his designee, to establish a schedule for the repayment of the debt; and
- Hearing.       “(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.
- Petition filing.   A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.
- “(3) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.
- Definitions.     “(4) For purposes of this subsection—
- “(A) ‘disposable pay’ means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and
- “(B) ‘agency’ includes the United States Postal Service and the Postal Rate Commission.”.
- (b) Section 5514(b) of title 5, United States Code, is amended by inserting “(1)” immediately after “(b)” and by adding at the end thereof the following new paragraph:
- “(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.”.
- (c) The section heading of section 5514 of title 5, United States Code, is amended to read as follows:
- “§ 5514. Installment deduction for indebtedness to the United States”.

#### PROTECTION OF FEDERAL DEBT COLLECTORS

SEC. 6. Section 1114 of title 18, United States Code, is amended—

- (1) by striking out “or” before “any attorney”; and
- (2) by inserting before “shall be punished” a comma and the following: “or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority”.

#### SCREENING POTENTIAL DEBTORS

SEC. 7. (a) DISCLOSURE TO FEDERAL LENDING AGENCY THAT APPLICANT HAS TAX DELINQUENT ACCOUNT.—Paragraph (3) of section



6103(l) of the Internal Revenue Code of 1954 is amended to read as follows: 26 USC 6103

**“(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—**

**“(A) IN GENERAL.—**Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

**“(B) RESTRICTION ON DISCLOSURE.—**Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

**“(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—**For purposes of this paragraph, the term ‘included Federal loan program’ means any program—

**“(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and**

**“(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program.”**

**(b) TECHNICAL AMENDMENTS.—**

(1) Clause (i) of section 6103(p)(3)(C) of such Code is amended by striking out “(l) (3) or (6)” and inserting in lieu thereof “(l)(6)”.

(2) Paragraph (4) of section 6103(p) of such Code is amended—

(A) by striking out “(l) (1), (2),” in the matter preceding subparagraph (A) and inserting in lieu thereof “(l) (1), (2), (3),”

(B) by striking out “(l) (3), (6),” and inserting in lieu thereof “(l)(6),” and

(C) by striking out “(l) (1), (2), or (5), or (o)(1), the commission described in subsection (l)(3)” in subparagraph (F)(ii) and inserting in lieu thereof “(l) (1), (2), (3), or (5), or (o)(1),”.

(c) **EFFECTIVE DATE.—**The amendments made by this section shall apply in the case of loan applications made after September 30, 1982.

26 USC 6103  
note.

**DISCLOSURE OF MAILING ADDRESS TO THIRD PARTIES FOR PURPOSES OF COLLECTING FEDERAL CLAIMS**

**SEC. 8. (a)** Paragraph (2) of section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended to read as follows:

26 USC 6103

**“(2) FEDERAL CLAIMS.—**

**“(A) IN GENERAL.—**Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).

**“(B) SPECIAL RULE FOR CONSUMER REPORTING AGENCY.—**In the case of an agent of a Federal agency which is a consum-

er reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)."

26 USC 6103.

(b) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by adding at the end thereof the following new sentence: "In the case of any agency which receives any mailing address under subsection (m) (2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency)."

(c) TECHNICAL AMENDMENTS.—

26 USC 7213.

(1) Paragraph (3) of section 6103(a) of such Code is amended by striking out "subsection (m)(4)(B)" and inserting in lieu thereof "paragraph (2) or (4)(B) of subsection (m)".

26 USC 6103  
note.

(2) Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(m)(4)" and inserting in lieu thereof "(m) (2) or (4)".

5 USC 5514  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 1 *et seq.*  
42 USC 1305.

(e) Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section, nothing in this Act (or in the amendments made by this Act) shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1954, the Social Security Act, or the tariff laws of the United States.

#### STATUTE OF LIMITATIONS WITH RESPECT TO ADMINISTRATIVE OFFSETS

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

*Infra.*

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting any claim of the United States by means of administrative offset, in accordance with section 5 of the Federal Claims Collection Act of 1966."

#### ADMINISTRATIVE OFFSETS

SEC. 10. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 *et seq.*) is amended—

31 USC 951 note.

(1) by redesignating section 5 as section 6; and

31 USC 954.

(2) by adding the following new section 5:

"SEC. 5. (a) The head of an agency or his designee may, after attempting to collect a claim from a person under section 3(a) of this Act, collect the claim by means of administrative offset, except that no claim under this Act that has been outstanding for more than ten years may be collected by means of administrative offset.

"(b) The head of an agency or his designee may not collect any claim by administrative offset authorized by subsection (a) unless the agency head has prescribed regulations for the exercise of such administrative offset, based on the best interests of the United States, the likelihood of collecting a claim by administrative offset,

and, with respect to the collection of claims by means of administrative offset after the six-year period provided in section 2415 of title 28, United States Code, has expired for bringing an action on such a claim, the cost effectiveness of leaving such claim unresolved for more than six years.

“(c) Prior to collecting any claim through administrative offset, the head of the agency or his designee shall provide the debtor with—

Provisions  
affecting  
debtor.

“(1) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

“(2) an opportunity to inspect and copy the records of the agency with respect to the claim;

“(3) an opportunity for the review, within the agency, of the determination of the agency with respect to the claim; and

“(4) an opportunity to enter into a written agreement with the head of the agency or his designee, for the repayment of the amount of the claim.

“(d) The provisions of this section shall not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

“(e) For purposes of this section—

“(1) the term ‘administrative offset’ means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

“Administrative  
offset ”

“(2) the term ‘person’ does not include any agency of the United States, or of any State or local government.”.

“Person.”

#### INTEREST AND PENALTY ON INDEBTEDNESS TO THE UNITED STATES

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection:

“(e)(1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts on claims owed by persons that is equal to the average investment rate for the Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and such rate shall become effective on the first day of the next calendar quarter. The Secretary of the Treasury may revise such rate quarterly if the average investment rate for the twelve-month period ending at the close of that calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by 2 per centum. For purposes of this paragraph, ‘calendar quarter’ means any three-month period beginning on January 1, April 1, July 1, or October 1.

Publication  
of rate.

“Calendar  
quarter ”

“(2) Except as provided in paragraph (3), the head of an agency or his designee shall, with respect to claims owed by persons—

“(A) assess charges to cover the costs of processing and handling delinquent claims, and

“(B) assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due.

Waivers.

“(3) Interest and charges under paragraphs (1) and (2) shall not apply if an applicable statute, a regulation required by statute, a loan agreement, or a contract either prohibit the charging of interest or charges, or explicitly fix interest or charges that apply to claims involved. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of paragraphs (1) and (2).

“(4) This subsection shall not apply to any claim under a contract which is executed before the effective date of this subsection and which is in effect on that date.

Interest accrual.

“(5) Subject to paragraph (6), interest under paragraph (1) shall accrue—

“(A) except as provided in subparagraph (B), from the date on which notification of the amount due on the claim is first mailed to the debtor (using the most current address of such debtor that is available to the head of the agency or his designee); or

*Ante*, p. 1749.

“(B) if such notification was first mailed before the date of the enactment of the Debt Collection Act of 1982, from the date on which such notification is first mailed after such date of enactment.

The rate of interest to be charged on a claim under paragraph (1) shall be the rate in effect on the date from which interest accrues on the claim under subparagraph (A) or (B), and shall remain fixed at that rate for the duration of the indebtedness.

“(6) Interest under paragraph (1) shall not be charged if the amount due on the claim is paid within thirty days after the date from which interest accrues under paragraph (5). The head of an agency may extend such thirty-day period.

“(7) Interest under this subsection shall not accrue on any charges assessed pursuant to paragraph (2) of this subsection.

“Person.”

“(8) For purposes of this subsection, the term ‘person’ does not include any agency of the United States or any State or local government.”

#### REPORT ON AGENCY DEBT COLLECTION ACTIVITIES

31 USC 955.

SEC. 12. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Secretary of the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency. The report shall contain information regarding—

(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

(2) the total amount of receivables and number of claims that are at least thirty days past due;

- (3) the total amount written off as uncollectable, actual, and allowed for;
  - (4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;
  - (5) the total number of claims and total amount collected;
  - (6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;
  - (7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and
  - (8) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.
- (b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress on the management of agency debt collection activities, including the information provided to the Director under subsection (a) above.

Report to  
Congress.

#### CONTRACTS FOR COLLECTION SERVICES

SEC. 13. (a) Section 3617 of the Revised Statutes (31 U.S.C. 484) is amended by striking out "section 487" and inserting in lieu thereof "sections 487 and 952(g)(2)".

(b) Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by sections 3 and 11 of this Act) is further amended by adding at the end thereof the following new subsections:

"(f)(1) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code of 1954, the head of an agency or his designee may enter into a contract with any person or organization, under such terms and conditions as the head of the agency or his designee considers appropriate, for collection services to recover indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and refer the matter to the Attorney General to initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, to the extent provided in subsection (m) of that section, and shall be subject to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

"(2) Notwithstanding section 3617 of the Revised Statutes (31 U.S.C. 484), the head of an agency or his designee may provide, as part of a contract described in paragraph (1), that appropriate fees charged by a contractor to recover indebtedness owed to the United States may be payable from the amount collected by such contractor.

Contractor  
fees.

"(3) Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts.

“Claim.”

“(g) For purposes of this Act, the term ‘claim’ includes amounts owing on account of loans insured or guaranteed by the United States and all other amounts due the United States from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources.”.

Approved October 25, 1982.

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**LEGISLATIVE HISTORY—H.R. 4613 (S. 1249):**

HOUSE REPORT No. 97-496 (Comm. on Ways and Means).

SENATE REPORTS: No. 97-378 (Comm. on Governmental Affairs) and No. 97-287 (Comm. on Finance) both accompanying S. 1249.

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 4, 5, considered and passed House.

Sept. 27, 28, considered and passed Senate, amended.

Sept. 30, House concurred in Senate amendment with amendments.

Oct. 1, Senate concurred in House amendments.

Public Law 97-366  
97th Congress

An Act

To amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes.

Oct. 25, 1982

[H.R. 4441]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 708 of chapter 7 of title 17 of the United States Code is amended—

Copyright Office  
fees,  
amendment.

(1) by striking out subparagraphs (1) and (2) of paragraph (a) in their entirety and inserting in lieu thereof the following:

“(1) on filing each application for registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration if registration is made, \$10;

“(2) on filing each application for registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, \$6;” and

(2) in paragraph (c), by striking out everything in the last sentence following the word “section” the first time it appears therein and inserting a period in lieu thereof.

SEC. 2. This Act shall take effect thirty days after its enactment and shall apply to claims to original, supplementary, and renewal copyright received for registration in the Copyright Office on or after the effective date. Claims to original, supplementary, and renewal copyright received for registration in acceptable form in the Copyright Office before the effective date shall be governed by the provisions of section 708(a) (1) and (2) in effect prior to this enactment.

Effective date  
17 USC 708 note.

SEC. 3. That section 110 of title 17 of the United States Code is amended by adding at the end thereof the following new paragraph:

“(10) notwithstanding paragraph 4 above, the following is not an infringement of copyright: performance of a nondramatic literary or musical work in the course of a social function which is organized and promoted by a nonprofit veterans’ organization or a nonprofit fraternal organization to which the general public is not invited, but not including the invitees of the organizations, if the proceeds from the performance, after deducting the reasonable costs of producing the performance, are used exclusively for charitable purposes and not for financial gain. For purposes of this section the social functions of any college or university fraternity or sorority shall not be included unless the social function is held solely to raise funds for a specific charitable purpose.”.

17 USC 708.

Compensation.      **SEC. 4.** Title 35, United States Code, section 3 is amended by adding the following new subsection:

“(d) The Commissioner of Patents and Trademarks shall be an Assistant Secretary of Commerce and shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce.”.

Approved October 25, 1982.

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**LEGISLATIVE HISTORY—H.R. 4441:**

**HOUSE REPORTS:** No. 97-494 (Comm. on the Judiciary) and No. 97-930 (Comm. of Conference).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

May 10, considered and passed House.

June 30, considered and passed Senate, amended.

Oct. 1, Senate and House agreed to conference report.



Public Law 97-367  
97th Congress

An Act

To establish a White House Conference on Productivity.

Oct. 25, 1982

[H.R. 7292]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

White House  
Conference on  
Productivity  
Act.

SHORT TITLE

SEC. 101. This Act may be cited as the "White House Conference on Productivity Act".

15 USC 2401  
note.

FINDINGS

SEC. 102. The Congress finds that—

15 USC 2401  
note.

(1) the United States traditional annual productivity improvement rate of approximately 3 per centum has fallen drastically in recent years to a negative one-half of 1 per centum;

(2) if our traditional productivity improvement rate has been maintained, the average household would have received nearly \$5,500 in additional real income each year;

(3) the decline in productivity has inflated the cost of goods and services produced in the United States relative to the goods and services of nations with higher productivity rates;

(4) improved productivity will enhance our international competitiveness, which will expand foreign market opportunities and jobs;

(5) productivity improvement can be restored in the United States through the application of policies and management techniques which have brought substantial productivity gains on a broad scale in other countries and in some businesses within the United States;

(6) when adequate protections are provided, productivity improvement techniques can bring great benefits to labor as well as management; and

(7) the United States must act immediately to reverse our productivity decline and to restore our annual productivity improvement.

DEFINITIONS

SEC. 103. For purposes of this Act—

15 USC 2401  
note.

(1) the term "Conference" means the White House Conference on Productivity;

(2) the term "Director" means a Director of the White House Conference on Productivity who shall be appointed by the Secretary of Commerce and who shall be paid at the rate of basic pay provided for level V of the Executive Schedule pursuant to section 5316 of title 5, United States Code;

(3) the term "productivity" means output per paid employee hour of all employees in the private sector; and

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

#### ESTABLISHMENT AND DUTIES OF THE WHITE HOUSE CONFERENCE ON PRODUCTIVITY

15 USC 2401  
note.

**SEC. 104.** (a) The President shall conduct a White House Conference on Productivity (hereinafter referred to as the "Conference") not later than one year after the date of enactment of this Act in order to develop recommendations to stimulate the Nation's productivity improvement rate.

(b) For the purpose of ascertaining facts and developing recommendations concerning the improvement of productivity, the Conference shall bring together individuals who are experts in the field of productivity, employees, and representatives of business, associations, labor organizations, academic institutions, and Federal, State, and local government.

Policy options,  
consideration.

(c) The Conference shall consider the following policy options with regard to their role in improving national productivity:

(1) reorganization of the Federal Government so that it can best promote productivity improvement in the private and public sectors;

(2) bringing to the attention of American businesses, labor organizations, and Government officials the benefits which result from implementing productivity improvement techniques;

(3) improving the general training and skill level of American labor;

(4) redirecting Government efforts to inform American businesses of foreign technological developments;

(5) encouraging Government agencies to share with industry new discoveries and processes that improve productivity;

(6) establishing annual Presidential awards of recognition for those businesses and industries which accomplish outstanding improvement in productivity and establishing similar awards at the State and district levels;

(7) revising the tax laws to encourage companies to take actions to improve productivity;

(8) reviewing the effect of the antitrust laws on efforts to improve productivity;

(9) reviewing the patent laws to determine if changes are needed to encourage more productive use of American patents;

(10) improving the accuracy and reliability of data gathered by the Bureau of the Census and other Government statistical collection centers which measure American productivity; and

(11) revising Federal civil service laws to improve the productivity of Government workers and encouraging similar action at State and local levels.

#### REPORT OF THE CONFERENCE

15 USC 2401  
note.

**SEC. 105.** A final report of the Conference on Productivity shall be submitted to the President not later than one hundred and twenty days following the date on which the Conference is called and the findings and recommendations included therein shall be immediately

made available to the public. The President shall, within one hundred and twenty days after submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement recommendations contained in such report with which he concurs.

Recommendations,  
transmittal to  
Congress.

#### ADMINISTRATION

SEC. 106. (a) In administering this Act, the Director shall—

15 USC 2401  
note.

(1) request the cooperation and assistance of the Office of Management and Budget and the Departments of Labor and the Treasury and such other Federal departments and agencies as may be appropriate in carrying out the provisions of this Act;

(2) render all reasonable assistance, including financial assistance to groups and organizations which are conducting district, State, or regional productivity conferences in preparation for the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference which are deemed necessary, and prepare and distribute any report of the Conference as may be necessary and appropriate;

(4) engage such additional personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

5 USC 5101 *et*  
*seq.*, 5331  
Contracts

(5) enter into contracts only to such extent and in such amounts as are provided in appropriation Acts, with organizations with particular expertise in productivity to conduct preparatory and followup work for the Conference.

(b) Personnel engaged under subsection (a)(4) shall be compensated at a rate not to exceed the rate equal to the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

Personnel.

Approved October 25, 1982.

#### LEGISLATIVE HISTORY—H.R. 7292:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 43 (1982):

Oct. 25, Presidential statement

Public Law 97-368  
97th Congress

## Joint Resolution

Dec. 17, 1982[H.J. Res. 595]

Designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day".

Whereas December 11, 1982, is the one hundredth anniversary of the birth of Fiorello H. La Guardia ("The Little Flower"), who served with great distinction for twelve years in the United States House of Representatives and for ten years as mayor of New York City; and

Whereas his vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our Nation and the city of New York; and

Whereas his public service career serves as a benchmark from which others are judged; and

Whereas his many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those who share his Italian heritage: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That December 11, 1982, is designated as "Fiorello H. La Guardia Memorial Day" and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Fiorello H. La  
Guardia  
Memorial Day.

Approved December 17, 1982.

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LEGISLATIVE HISTORY—H.J. Res. 595:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 30, considered and passed House.

Dec. 10, considered and passed Senate.

Public Law 97-369  
97th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Dec. 18, 1982

[H.R. 7019]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, namely:

Department of  
Transportation  
and Related  
Agencies  
Appropriations  
Act, 1983.

**TITLE I—DEPARTMENT OF TRANSPORTATION**

**OFFICE OF THE SECRETARY**

**SALARIES AND EXPENSES**

**(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed \$31,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, \$40,000,000, of which \$1,000,000 shall be transferred and made available to the Motor Carrier Ratemaking Study Commission and, of which not to exceed \$3,220,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center under title IX of Public Law 94-210: *Provided*, That all of the unexpended balances available for the purposes of title IX of Public Law 94-210 under the heading "Rail service assistance" shall be transferred to this account and remain available until expended: *Provided further*, That none of the funds in this Act shall be available for the execution of the sale or transference of any Government-owned securities of the Consolidated Rail Corporation without the prior consent of the House and Senate Committees on Appropriations.

90 Stat. 147.

**TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT**

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, \$4,900,000.

**LIMITATION ON WORKING CAPITAL FUND**

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed \$70,909,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to

the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

## COAST GUARD

### HEADQUARTERS ADMINISTRATION

#### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard, including, but not limited to, executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, \$72,440,000, of which \$14,000,000 shall be derived by transfer from appropriations for Retired pay.

### OPERATING EXPENSES

14 USC 92 note.

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles, for replacement only; and recreation and welfare, \$1,518,963,000, of which \$254,650 shall be applied to Capehart Housing debt reduction: *Provided*, That the number of aircraft on hand at any one time shall not exceed two hundred and ten exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation, and, notwithstanding any other law, the Secretary may prescribe fees to recover the expenses of yacht documentation.

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

#### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1987, \$409,000,000, of which \$9,000,000 shall be derived by transfer from the unobligated balances of "Pollution Fund".

### ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, \$12,700,000, to remain available until expended.

### RETIRED PAY

For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and

**Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), \$336,000,000.**

10 USC 1071 *et seq.*

#### RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, \$50,000,000 together with an amount not to exceed \$4,000,000 which shall be derived from appropriations for retired pay.

#### RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, \$20,000,000, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for research, development, testing and evaluation.

#### OFFSHORE OIL POLLUTION COMPENSATION FUND

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), \$1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury, to meet the obligations of the Fund, notes or other obligations pursuant to section 302 of the Amendments in such amounts and at such times as may be necessary.

92 Stat. 670.

43 USC 1812.

#### DEEPWATER PORT LIABILITY FUND

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), \$1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations pursuant to section 18(f)(3) of the Act in such amounts and at such times as may be necessary to meet the obligations of the Fund.

33 USC 1517.

33 USC 1517a.

#### NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND

For financial assistance for State recreational boating safety programs to be derived from the National Recreational Boating Safety and Facilities Improvement Fund, in accordance with the provisions of the Recreational Boating Safety and Facilities Improvement Act of 1980 (Public Law 96-451), \$5,000,000, to remain available until expended.

46 USC 1451  
note.

## FEDERAL AVIATION ADMINISTRATION

## HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, \$54,574,000.

## OPERATIONS

49 USC 1701  
note.

49 USC 1324  
note.

Study.

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; payments to lenders required as a consequence of any guaranty under Public Law 85-307, as amended; purchase of four passenger motor vehicles for replacement only and purchase and repair of skis and snowshoes, \$2,456,783,000, of which not to exceed \$1,264,000,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That, in addition, not to exceed \$5,000,000 shall remain available until expended to be derived from the Airport and Airway Trust Fund for reimbursement of expenses incurred by certificated air carriers in the security screening of passengers moving in foreign air transportation: *Provided further*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further*, That none of these funds shall be available for new applicants for the second career training program: *Provided further*, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure without the prior approval of both House and Senate Appropriations Committees: *Provided further*, That not to exceed \$500,000 of the total amount available for operation shall be obligated for a contract with the National Academy of Sciences and the Federal Aviation Administration Administrator shall enter into an agreement with the National Academy of Sciences to study the state of knowledge, alternative approaches and the consequences of wind shear alert and severe weather condition standards relating to take-off and landing clearances for commercial and general aviation aircraft: *Provided further*, That the Academy shall complete the study within six months after funding arrangements have been made: *Provided further*, That the Federal Aviation Administration Administrator shall report to Congress within thirty days regarding the status of the contractual arrangements and the conditions necessary to implement the agreement with the National Academy of Sciences: *Provided further*, That the Department of Transportation shall furnish to the National Academy of Sciences any information which the Academy determines to be necessary for the purpose of conducting the study: *Provided further*, That not to exceed \$150,000 of the funds provided to the Federal Aviation Administration in this Act shall be available for doubling the number of wind shear sensors at Moisant Airport in Kenner, Louisiana.



**FACILITIES, ENGINEERING AND DEVELOPMENT**

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, for acquisition and modernization of facilities and equipment and service testing in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant and lease or purchase of four aircraft, \$18,255,000, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for engineering and development.

**FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)****(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the lease or purchase of 21 aircraft; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1987; \$625,000,000, of which \$7,450,000 shall be derived from the unobligated balances of "Grants-in-aid for airports": *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

**RESEARCH, ENGINEERING AND DEVELOPMENT****(AIRPORT AND AIRWAY TRUST FUND)**

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$103,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

**GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)**

For liquidation of obligations incurred for airport development under authority contained in section 14 of Public Law 91-258, as amended, and for liquidation of obligations incurred for airport planning and development under other law authorizing such obliga-

tions, \$234,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

**OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON  
AIRPORTS**

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally owned civil airports in the vicinity of the District of Columbia, including purchase of ten passenger motor vehicles for police or ambulance type use, for replacement only; and purchase of two motor bikes for replacement only; purchase of one ambulance, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, \$31,955,000: *Provided*, That there may be credited to this appropriation, funds received from air carriers, concessionaires, and non-Federal tenants sufficient to cover utility and fuel costs which are in excess of \$7,036,000: *Provided further*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally owned civil airports.

**CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS**

For necessary expenses for construction at the federally owned civil airports in the vicinity of the District of Columbia \$11,080,000, to remain available until September 30, 1985.

**AVIATION INSURANCE REVOLVING FUND**

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

**AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM**

In carrying out the program for guarantee of aircraft purchase loans under the Act of September 7, 1957, as amended (49 U.S.C. 1324 note), during fiscal year 1983 new commitments to guarantee loans shall be exclusively for the purchase of aircraft designed to have a maximum passenger capacity of sixty seats or less or a maximum cargo payload of eighteen thousand pounds or less, and when combined with the aggregate of all guarantees made during fiscal year 1982 shall not exceed in the aggregate \$100,000,000 in principal amount.

**FEDERAL HIGHWAY ADMINISTRATION**

**LIMITATION ON GENERAL OPERATING EXPENSES**

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed \$188,500,000, shall be paid, in accordance with law, from appropriations made

available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed \$38,000,000 of the amount provided herein shall remain available until expended.

#### **MOTOR CARRIER SAFETY**

##### **(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses to carry out motor carrier safety functions of the Secretary, as authorized by the Department of Transportation Act (80 Stat. 939-940), \$11,600,000, together with \$1,000,000 to be derived by transfer from the unobligated balances of "Inter-American Highway", of which \$520,000 of the amount appropriated herein shall remain available until expended and not to exceed \$1,917,000 shall be available for "Limitation on general operating expenses".

49 USC 1651  
note.

#### **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT**

##### **(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses in carrying out provisions of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, \$7,700,000, together with \$300,000 to be derived from the unobligated balances of "Baltimore-Washington Parkway".

#### **HIGHWAY BEAUTIFICATION**

For necessary expenses in carrying out section 131 of title 23, U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, \$500,000 to remain available until expended.

92 Stat. 2690.

#### **HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)**

##### **(INCLUDING RESCISSION)**

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, \$22,998,000, to be derived from the Highway Trust Fund: *Provided*, That not to exceed \$833,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That \$9,623,000 available for obligation is hereby rescinded.

#### **TERRITORIAL HIGHWAYS**

For necessary expenses in carrying out the provisions of title 23, United States Code, sections 152, 153, 215, and 402, \$3,000,000, to remain available until expended.

**FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT  
AUTHORIZATION) (TRUST FUND)**

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, \$8,200,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION****OPERATIONS AND RESEARCH**

86 Stat. 947.

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), \$74,000,000, of which \$21,685,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed \$28,375,000 shall remain available until expended, of which \$9,507,000 shall be derived from the Highway Trust Fund: *Provided further*, That, of the funds appropriated under this heading \$2,000,000 shall be available only for activities at the Transportation Systems Center.

**STATE AND COMMUNITY HIGHWAY SAFETY****(LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)**

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402 and 406, to remain available until expended, \$103,552,000, to be derived from the Highway Trust Fund.

**FEDERAL RAILROAD ADMINISTRATION****OFFICE OF THE ADMINISTRATOR**

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$13,000,000.

**RAILROAD SAFETY**

For necessary expenses in connection with railroad safety, not otherwise provided for, \$28,000,000, of which \$4,800,000 shall remain available until expended.

**RAILROAD RESEARCH AND DEVELOPMENT**

For necessary expenses for railroad research and development, \$17,000,000, to remain available until expended.

**RAIL SERVICE ASSISTANCE**

49 USC 1654.  
95 Stat. 1667.  
40 USC 801 note.

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, for Washington Union Station, as authorized by Public Law 97-125, and

for necessary administrative expenses in connection with Federal rail assistance programs not otherwise provided for, \$31,675,000, to remain available until expended: *Provided*, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no commitments to guarantee new loans, under section 211(a) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That none of the funds in this Act shall be available for the sale or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations.

45 USC 661 note

45 USC 721.

### CONRAIL LABOR PROTECTION

#### (INCLUDING TRANSFER OF FUNDS)

For labor protection as authorized by section 713 of the Regional Rail Reorganization Act of 1973 as added by section 1143 of the Northeast Rail Service Act of 1981, \$20,000,000, to remain available until expended, of which \$10,000,000 shall be derived from the unobligated balances of "Redeemable preference shares": *Provided*, That such sum shall be considered to have been appropriated to the Secretary under said section 713 for transfer to the Railroad Retirement Board for the payment of benefits under section 701 of the Regional Rail Reorganization Act of 1973, as amended: *Provided further*, That, for purposes of section 710, of the Regional Rail Reorganization Act of 1973, as added by section 1143 of the Northeast Rail Service Act of 1981, such sum shall be considered to have been appropriated under section 713 of the Regional Rail Reorganization Act of 1973 and counted against the limitation on the total liability of the United States: *Provided further*, That such sums as may be necessary shall be made available for necessary expenses of administration of section 701 of the Regional Rail Reorganization Act of 1973 by the Railroad Retirement Board.

95 Stat. 668.

45 USC 797l.

95 Stat. 661.

45 USC 797.

95 Stat. 667.

45 USC 797i.

### NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of Public Law 94-210, as amended, \$115,000,000, to remain available until expended: *Provided*, That, notwithstanding any other provisions of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: *Provided further*, That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if he determines such action would serve a public purpose: *Provided further*, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

45 USC 851.

45 USC 851 note.

50 USC 1431.

### GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, \$700,000,000, to remain available until expended, for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565: *Provided*, That none of the funds herein appropri-

ated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1983: *Provided further*, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements not expressly provided for in an appropriation Act or prohibited by this Act shall be deemed a violation of 31 U.S.C. 665: *Provided further*, That, of the funds available, \$25,000,000 shall be held in reserve for 6 months after the date of enactment of this Act to be available for the rehabilitation, renewal, replacement, and other improvements on the line between Indianapolis, Indiana, Shelbyville, Indiana, and Cincinnati, Ohio: *Provided further*, That, of the funds available, \$5,000,000 shall be made available only for the rehabilitation, renewal, replacement, and other improvements on the line between Attleboro, Massachusetts, and Hyannis, Massachusetts, to ensure that such track will meet a minimum of class III standards as prescribed by applicable Federal Railroad Administration regulations.

#### COMMUTER RAIL SERVICE

##### (TRANSFER OF FUNDS)

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, \$15,000,000, to remain available until expended and to be derived from the unobligated balances of "Redeemable preference shares" and for necessary expenses to carry out section 1139(b) of Public Law 97-35, \$75,000,000, to remain available until expended and to be derived from the unobligated balances of "Payments for purchase of Conrail securities".

95 Stat. 652.  
45 USC 744a  
note.

#### ALASKA RAILROAD REVOLVING FUND

The Alaska Railroad Revolving Fund shall continue available until expended for the work authorized by law, including operation and maintenance of oceangoing or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for transportation of freight, passengers, or mail, when deemed necessary for the benefit and development of industries or travel in the area served and payment of compensation and expenses as authorized by 5 U.S.C. 8146, to be reimbursed as therein provided: *Provided*, That no employee shall be paid an annual salary out of said fund in excess of the salaries prescribed by the Classification Act of 1949, as amended, for grade GS-15, except the general manager of said railroad, one assistant general manager and five officers at not to exceed the salaries prescribed for members of the Senior Executive Service.

#### RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to

section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94-210, as amended shall not exceed \$600,000,000: *Provided further*, That the total commitments to guarantee new loans shall not exceed \$100,000,000 of contingent liabilities for loan principal during fiscal year 1983.

45 USC 832.

45 USC 831-833.

#### REDEEMABLE PREFERENCE SHARES

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed \$5,000,000.

45 USC 822,  
825-827, 829.  
45 USC 821, 822  
and note, 825.

#### EMERGENCY RAIL FACILITIES RESTORATION

##### (LIMITATION ON DIRECT LOANS)

During fiscal year 1983, gross obligations for deferred interest shall not exceed \$2,301,000.

#### URBAN MASS TRANSPORTATION ADMINISTRATION

##### ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$28,081,000.

23 USC 101 et  
seq.

##### RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

For necessary expenses for research and training, as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, \$58,250,000: *Provided*, That \$55,050,000 shall be available for research, development, and demonstrations, \$2,000,000 shall be available for university research and training and not to exceed \$1,200,000 shall be available for managerial training as authorized under the authority of said Act.

##### URBAN DISCRETIONARY GRANTS

For necessary expenses for urban discretionary grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49

U.S.C. 1601 et seq.), to remain available until September 30, 1986, \$1,606,000,000: *Provided*, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

#### NON-URBAN FORMULA GRANTS

For necessary expenses for public transportation projects in areas other than urbanized areas as defined for the purposes of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), \$68,500,000, to remain available until expended: *Provided*, That this appropriation shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

#### URBAN FORMULA GRANTS

For necessary expenses for urban formula grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), \$1,200,000,000, to remain available until expended: *Provided*, That this appropriation shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census: *Provided further*, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs: *Provided further*, That, where necessary, the Secretary shall assist grantees in making such evaluation.

#### LIQUIDATION OF CONTRACT AUTHORIZATION

For payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. 142(c) and of obligations incurred for projects substituted for Interstate System segments withdrawn prior to enactment of the Federal-Aid Highway Act of 1976, \$681,135,000, to remain available until expended: *Provided*, That none of these funds shall be made available for the establishment of depreciation reserves or reserves for replacement accounts: *Provided further*, That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.



**WASHINGTON METRO**

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, \$240,000,000, to remain available until expended.

93 Stat. 1320

**SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION**

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the Corporation except as hereinafter provided.

31 USC 849.

**LIMITATION ON ADMINISTRATIVE EXPENSES**

Not to exceed \$1,716,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed \$3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided*, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and \$15,000 for services as authorized by 5 U.S.C. 3109.

**RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION****RESEARCH AND SPECIAL PROGRAMS**

For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), \$20,022,000, of which \$9,550,000 shall remain available until expended.

**OFFICE OF THE INSPECTOR GENERAL****SALARIES AND EXPENSES**

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$24,946,000.

5 USC app.

**TITLE II—RELATED AGENCIES****ARCHITECTURAL AND TRANSPORTATION BARRIERS  
COMPLIANCE BOARD****SALARIES AND EXPENSES**

29 USC 792. For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, \$2,020,000.

**NATIONAL TRANSPORTATION SAFETY BOARD****SALARIES AND EXPENSES**

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; service as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$19,970,000, of which not to exceed \$300 may be used for official reception and representation expenses.

**CIVIL AERONAUTICS BOARD****SALARIES AND EXPENSES**

For necessary expenses of the Civil Aeronautics Board, including hire of aircraft; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and not to exceed \$4,000 for official reception and representation expenses, \$23,125,000: *Provided*, That of the foregoing amount, not to exceed \$10,625,000 shall be made available for the period between April 1, 1983, and September 30, 1983.

**PAYMENTS TO AIR CARRIERS**

49 USC 1376a. For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 419 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1389), as is payable by the Board, \$48,400,000, to remain available until expended and such amounts as may be necessary to liquidate obligations incurred prior to September 30, 1982, under 49 U.S.C. 1376 and 1389: *Provided*, That, notwithstanding any other provision of law, none of the funds hereafter appropriated by this or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: *Provided further*, That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 30, 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): *Provided further*, That, notwithstanding any other provision of law, such payments shall be based upon rate orders applicable to such carriers as of July 1, 1982, but shall not exceed

\$13,500,000 in the aggregate: *Provided further*, That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a percentage which is the same for all carriers eligible for such payments: *Provided further*, That nothing in this Act shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this Act, in which event the standards and procedures set forth in section 419(a)(11)(A) shall apply.

## INTERSTATE COMMERCE COMMISSION

### SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed \$1,500 for official reception and representation expenses, \$65,600,000: *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

49 USC 10344  
note.

### PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided under this Act shall be available for the execution of programs the obligations for which can reasonably be expected to be in excess of \$10,000,000 for directed rail service under 49 U.S.C. 11125 or any other legislation.

## PANAMA CANAL COMMISSION

### OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed \$8,000 for official reception and representation expenses of the Board; operation of guide services; residence for the administrator; contingencies of the administrator; not to exceed \$25,000 for official reception and representation expenses of the Administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining, improving, and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter, including accounts payable for capital projects, \$405,000,000, to be derived from the Panama Canal Commission Fund: *Provided*, That there may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlays account for expenses incurred for supplies and services provided for capital projects and funds received from officers and employees of the Commission and/or commercial insurers of Commission employees for payment to other United States Government agencies for expenditures made for services provided to Commission employees and their dependents by such other agencies: *Provided further*, That, to the extent that the resources of the Fund are not adequate to provide the amount of

budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

#### CAPITAL OUTLAY

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-two passenger motor vehicles of which nineteen are for replacement only; to employ services authorized by law (5 U.S.C. 3109); for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, \$29,024,000: *Provided*, That funds appropriated are to be derived from the Panama Canal Commission Fund and to remain available until expended.

### DEPARTMENT OF THE TREASURY

#### OFFICE OF THE SECRETARY

##### INVESTMENT IN FUND ANTICIPATION NOTES

45 USC 829.  
45 USC 821, 822  
and note, 825.

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, \$5,000,000.

### UNITED STATES RAILWAY ASSOCIATION

#### ADMINISTRATIVE EXPENSES

45 USC 701 note.

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, \$2,950,000, to remain available until expended, of which not to exceed \$500 may be available for official reception and representation expenses.

### WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

#### INTEREST PAYMENTS

93 Stat. 1320.

For necessary expenses for interest payments, to remain available until expended, \$51,663,569: *Provided*, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

### TITLE III—GENERAL PROVISIONS

Sec. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and

uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. None of the funds provided in this Act shall be available for the planning or execution of programs the commitments for which are in excess of \$600,000,000 in fiscal year 1983 for grants-in-aid for airport planning, noise compatibility planning and programs, and development.

Airport planning grants.

SEC. 303. None of the funds provided under this Act shall be available for the planning or execution of programs, the obligations for which are in excess of \$10,000,000 in fiscal year 1983 for "Highway-related safety grants".

Highway-related safety grants.

SEC. 304. None of the funds provided under this Act shall be available for the planning or execution of programs, the total obligations for which are in excess of \$95,000,000 in fiscal year 1983 for "State and community highway safety": *Provided*, That none of the funds under "State and community highway safety" shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures.

State and community highway safety.

SEC. 305. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

Panama Canal Commission, pay increase.

SEC. 306. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

FAA personnel, dependents' school expenses.  
20 USC 241 note.

SEC. 307. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 308. None of the funds provided under this Act for Urban formula grants shall be made available to support mass transit facilities, equipment, or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and forms as the Secretary may require, and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the rates generally applicable to other persons at peak hours: *Provided*, That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall (1) permit applicants to continue the use of preferential fare systems for elderly or handicapped persons where those sys-

Mass transit fare for elderly and handicapped.

tems were in effect on or prior to November 26, 1974, (2) allow applicants a reasonable time to expand the coverage of operating preferential fare systems as appropriate, (3) allow applicants to continue to use preferential fare systems incorporating the offering of a free return ride upon payment of the generally applicable full fare where any such applicant's existing fare collection system does not reasonably permit the collection of half fares, and (4) allow applicants to define the eligibility of "handicapped persons" for the purposes of preferential fares in conformity with other Federal laws and regulations governing eligibility for benefits for disabled persons.

Fiscal year  
limitation.

SEC. 309. None of the funds contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Federal-aid  
highways.  
95 Stat. 1667.  
40 USC 801 note.  
*Ante*, p. 180.

SEC. 310. (a) Notwithstanding any other provision of law except Public Laws 97-125 and 97-216, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1983 shall not exceed \$8,100,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

23 USC 144 note.

(b) For fiscal year 1983, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1983, revise a distribution of the funds made available under subsection (b) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

33 USC 985a.

SEC. 311. Notwithstanding any other provision of law, any bond issued under section 5 of the Act of May 13, 1954 (68 Stat. 94; 33 U.S.C. 985), is hereby canceled together with the obligation to pay such bond and section 12(b)(5) of such Act is hereby repealed:

33 USC 988.

*Provided*, That paragraphs (10), (11), and (12) of section 4 of the Act of May 13, 1954, are hereby redesignated as paragraphs (11), (12), and (13) respectively and a new paragraph (10) is enacted to read as follows:

33 USC 984.

“(10) may retain toll revenues for purposes of eventual reinvestment in the Seaway.”.

SEC. 312. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$60,000,000 in fiscal year 1983 for the “Offshore Oil Pollution Compensation Fund”.

Offshore Oil  
Pollution  
Compensation  
Fund.

SEC. 313. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

Panama Canal  
Commission.

SEC. 314. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

Rail-highway  
crossings.

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

45 USC 851, 853.

SEC. 315. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

Regulatory or  
adjudicatory  
proceedings.

SEC. 316. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.

Motor vehicles,  
State inspection  
fees or sticker  
requirements.

SEC. 317. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

49 CFR Part 396.  
Consulting  
service  
contracts.

SEC. 318. For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Submittal to  
congressional  
committees.  
31 USC 1114  
note.

SEC. 319. None of the funds in this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Deepwater Port  
Liability Funds.

SEC. 320. None of the funds provided in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$50,000,000 in fiscal year 1983 for the "Deepwater Port Liability Fund".

23 USC 127 note.

70 Stat. 374.

SEC. 321. Notwithstanding any other provision of law, no funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall hereafter be apportioned to any State which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highways as designated by the Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more: *Provided*, That, notwithstanding any other provision of law, certain safety devices which the Secretary of Transportation determines as necessary for safe and efficient operation of motor vehicles shall not be included in the calculation of width: *Provided further*, That, notwithstanding any other provision of law or of this paragraph, a State may grant special use permits to motor vehicles that exceed 102 inches: *Provided further*, That, notwithstanding any other provision of law, no withholding of apportionment shall be imposed upon a State by virtue of the provisions of this paragraph prior to October 1, 1983.

Compensation  
claims.  
49 USC 1376b.  
49 USC 1376,  
1389.

41 USC 609.

SEC. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, decided by the Civil Aeronautics Board (hereinafter referred to as the "Board") may bring an action directly on the claim in the United States Claims Court as provided in section 10(a) of the Contract Disputes Act of 1978 with respect to claims which have been decided by a contracting officer. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an action on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any action under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

41 USC 601 note.

41 USC 609.

41 USC 611.

(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a decision of a contracting officer under section 10(a) of such Act and as if the Board were a contracting officer:

(1) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section, not to precede the date of enactment of the Contract Disputes Act of 1978.

41 USC 612.

28 USC 1491.

(2) Section 13, relating to the payment of claims and judgments.

(3) Section 14(i), relating to the jurisdiction of the United States Claims Court.



(c) If an administrative law judge has issued an initial decision after a hearing on the record in the case before the Board, the court may, in its discretion, rely upon the evidence adduced at such hearing and may give such initial decision such weight as it deems appropriate.

SEC. 323. None of the funds provided by this Act shall be used by the Civil Aeronautics Board to substitute aircraft of lesser seating capacity or lesser than necessary pressurized altitude capability, for the type of aircraft now prescribed for essential air transportation to any point in Alaska as set forth in Civil Aeronautics Board Order 80-1-167 without the prior concurrence of the applicable State agency of the State of Alaska.

SEC. 324. No funds appropriated under this Act shall be expended to pay for any travel initiated after January 1, 1983, by the Administrator of the Federal Aviation Administration as passenger or crew member aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: *Provided*, That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator within 6 hours local time of the desired time of arrival: *Provided further*, That this limitation shall not apply to costs incurred by any flight which is essentially for the purpose of inspecting, investigating, or testing the operations of any aspect of the Federal Aviation Administration system designed to aid and control air traffic, or to maintain or improve aviation safety: *Provided further*, That this limitation shall not apply to costs incurred by any flight in Department of Transportation aircraft which is necessary in times of emergency or disaster, or for security reasons, or to fulfill official diplomatic representation responsibilities in foreign countries: *Provided further*, That written certifications shall be issued quarterly on all flights initiated in the previous quarter subject to this limitation and shall be made readily available to Congress and the general public.

Air travel,  
limitation.

SEC. 325. (a) Neither the Secretary of the department in which the Coast Guard is operating nor any other officer or employee of the United States shall approve any project or take any action which would interfere with the reasonable needs of navigation on the Columbia Slough, Oregon.

Columbia  
Slough, Oreg.,  
bridge  
construction.

(b) For purposes of subsection (a) of this section, any bridge which is to be constructed across the Columbia Slough, Oregon, after the date of enactment of this section shall be deemed to provide for the reasonable needs of navigation on the Columbia Slough, Oregon, if such bridge provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as determined by the Secretary of the department in which the Coast Guard is operating.

SEC. 326. Notwithstanding any other provision of law or of this Act, the Secretary of Transportation shall approve, upon request of the State of Indiana, \$300,000 to be made available from funds available for redistribution under 23 U.S.C. 118(b) for a project to relocate and encase certain water line facilities crossing under I-80 and I-94 in Hammond, Indiana. Such sums shall remain available until expended and shall be subject to any obligation limitations for Federal-aid highway programs.

Hammond, Ind.

SEC. 327. Notwithstanding any other provision of law, the Secretary of Transportation shall approve, upon request of the State of Indiana, not to exceed \$4,000,000, to be made available from funds

available for redistribution under 23 U.S.C 118(b) for the construction of an interchange to appropriate standards at I-94 and County Line Road at the Porter-LaPorte County Line near Michigan City, Indiana. Such amount shall be subject to the obligation limitation enacted for fiscal year 1983 or any fiscal year thereafter on obligations for Federal-aid highways and highway safety construction programs.

Transfer of  
Funds.

SEC. 328. Notwithstanding any other provision of this Act, the Secretary of Transportation is authorized to transfer appropriated funds between the Coast Guard Operating expenses appropriation and the Coast Guard Headquarters administration appropriation and between the Federal Aviation Administration appropriation for Operations and the Federal Aviation Administration appropriation for Headquarters administration: *Provided*, That the Coast Guard and Federal Aviation Administration Headquarters administration appropriations shall be neither increased nor decreased by more than 7.5 per centum by any such transfers: *Provided further*, That any such transfers shall be reported promptly to the Committees on Appropriations and the appropriate authorizing committees in the House and the Senate.

Short title.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1983".

Approved December 18, 1982.

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LEGISLATIVE HISTORY—H.R. 7019 (S. 2914):

HOUSE REPORTS: No. 97-783 (Comm. on Appropriations) and No. 97-960 (Comm. of Conference).

SENATE REPORTS: No. 97-546 accompanying S. 2914 (Comm. on Appropriations), No. 97-567 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 16, 21, considered and passed House.

Dec. 2, considered and passed Senate, amended.

Dec. 16, House agreed to conference report; concurred in certain Senate amendments, in others with amendments; Senate agreed to conference report; concurred in House amendments.

Public Law 97-370  
97th Congress

An Act

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

Dec. 18, 1982  
[H R 7072]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes; namely:

Agriculture,  
rural  
development,  
and related  
agencies  
appropriations,  
fiscal year 1983.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed \$75,000 for employment under 5 U.S.C. 3109, \$3,884,000: *Provided*, That not to exceed \$8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

STANDARD LEVEL USER CHARGES (USDA)

For payment of standard level user charges pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, \$56,377,000.

40 USC 601 note

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, \$1,398,000: *Provided*, That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

DEPARTMENTAL ADMINISTRATION

For Budget and Program Analysis, and Public Participation, \$3,529,000; for Energy, \$185,000; for Operations and Finance, Personnel, Regulatory Hearings, Equal Opportunity, Safety and Health Management, and Small and Disadvantaged Business Utilization, \$9,452,000; making a total of \$13,166,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, of which not to exceed \$10,000 is for

employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

#### OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving governmental and public affairs and emergency preparedness; acting as liaison within the executive branch; and for the dissemination of agricultural information and the coordination of information work and programs authorized by Congress in the Department, \$6,677,000; of which not to exceed \$10,000 shall be available for employment under 5 U.S.C. 3109, and, not to exceed \$2,000,000 may be used for farmers' bulletins and not less than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

#### OFFICE OF CONGRESSIONAL AFFAIRS

For necessary expenses for liaison with the Congress on legislative matters, \$439,000.

#### OFFICE OF THE INSPECTOR GENERAL

Transfer of funds.

5 USC app.

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), \$27,943,000 including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed \$50,000 for employment under 5 U.S.C. 3109; and in addition, \$14,270,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

#### OFFICE OF THE GENERAL COUNSEL

Transfer of funds.

For necessary expenses, including payment of fees or dues for the use of law libraries by attorneys in the field service, \$12,386,000; and in addition, \$628,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

#### FEDERAL GRAIN INSPECTION SERVICE

7 USC 71.

7 USC 1621 note.

Building alteration and repair.

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 for employment under 5 U.S.C. 3109, \$5,369,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C.

2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to persons or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

7 USC 71 note.

#### INSPECTION AND WEIGHING SERVICES

##### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$44,313,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

#### AGRICULTURAL RESEARCH SERVICE

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, \$452,378,000: *Provided*, That appropriations hereunder shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That of the appropriations hereunder not less than \$10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed \$110,000, except for headhouses connecting greenhouses which shall each be limited to \$500,000, and except for ten buildings to be constructed or improved at a cost not to exceed \$200,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or \$110,000 whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of \$110,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the limitations on construction contained in this Act shall not apply to the establishment of a fruit and nut germplasm repository at Geneva, New York.

7 USC 2254.

Construction costs.  
7 USC 2254.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and coopera-

Special fund.

tive agreements to strengthen the work at Federal research installations in the field, \$2,000,000.

#### BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Agricultural Research Service, where not otherwise provided, \$1,927,000.

#### SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), \$2,977,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed, and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed \$25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

#### COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including \$149,295,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); \$12,452,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a-582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); \$22,394,000 for payments to the 1890 land-grant colleges, including Tuskegee Institute, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee Institute; \$26,533,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); \$17,000,000 for competitive research grants, including administrative expenses; \$5,760,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113,

20 USC 1001  
note.

D.C. Code  
31-1701 note.

7 USC 361f  
7 USC 301 note.

20 USC 1001  
note.  
7 USC 301 note.

7 USC 3222.

7 USC 3195.

including administrative expenses; \$540,000 for grants in accordance with section 1419 of Public Law 95-113, as amended; \$702,000 for research authorized by the Native Latex Commercialization and Economic Development Act of 1978; \$10,000,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98; and \$290,000 for necessary expenses of Cooperative State Research Service activities, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 for employment under 5 U.S.C. 3109; in all, \$244,966,000.

7 USC 3154.

7 USC 178 note.

7 USC 3223.

#### EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, American Samoa, and Micronesia: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of the Act, for retirement and employees' compensation costs for extension agents, and for costs of penalty mail for cooperative extension agents and State extension directors, \$230,376,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$60,354,000; payments for the urban gardening programs under section 3(d) of the Act, \$3,000,000; payments for the pest management program under section 3(d) of the Act, \$7,531,000; payments for the farm safety program under section 3(d) of the Act, \$1,020,000; payments for the pesticide impact assessment program under section 3(d) of the Act, \$1,716,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, \$2,000,000; payments for extension work under section 209(c) of Public Law 93-471, \$983,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee Institute, \$16,241,000; in all, \$323,221,000, of which not less than \$79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, American Samoa, and Micronesia prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

86 Stat. 350.

7 USC 301 note.

7 USC 343.

16 USC 1600  
note.D.C. Code  
31-1719.

7 USC 343.

86 Stat. 350.

Federal administration and coordination: For Administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension and higher education work of the Department and the several States and insular possessions, \$5,451,000, of which not less than \$2,300,000 is for Home Economics.

7 USC 341-349.

86 Stat. 350.

D.C. Code  
31-1719.

7 USC 301 note.

## NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, \$8,849,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed \$575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE

## SALARIES AND EXPENSES

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, \$267,915,000 of which \$1,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided*, That \$1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

Aircraft.

Transfer of  
funds.  
21 USC 129.21 USC 114b.  
7 USC 147a.

## BUILDINGS AND FACILITIES

For plans, construction, repair, extension, alterations, purchase and improvement of fixed equipment or facilities, \$2,386,000: *Provided*, That this appropriation shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements: *Provided further*, That unless otherwise provided, the cost of constructing any one building (except greenhouses) shall not exceed \$115,000, and four buildings to be constructed or improved at a cost not to exceed \$230,000 each: *Provided further*,

Construction  
costs.



That the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or \$90,000 whichever is greater: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100.

#### FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services to ensure that the Nation's commercial supply of meat and poultry products is safe, wholesome, and correctly labeled, as authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, \$315,557,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed \$90,000, except for two buildings to be constructed or improved at a cost not to exceed \$150,000, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100.

21 USC 601 note.

21 USC 451 note.

Construction  
costs.

#### ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmers cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; \$37,751,000, of which not less than \$200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That not less than \$350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C.

3109: *Provided further*, That not less than \$145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further*, That not less than \$66,000 of the funds contained in this appropriation shall be available for preparing and disseminating forecasts of farm sector receipts, production expenses, and net income indicators for crop year 1983 on a quarterly basis commencing prior to December 31, 1982.

#### STATISTICAL REPORTING SERVICE

7 USC 411b. For necessary expenses of the Statistical Reporting Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, \$51,035,000: *Provided*, That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$40,000 shall be available for employment under 5 U.S.C. 3109.

#### AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), \$4,639,000, of which \$139,000 shall be available for establishing a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$15,000 shall be available for employment under 5 U.S.C. 3109.

#### WORLD AGRICULTURAL OUTLOOK BOARD

7 USC 1622. For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), \$1,403,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109.

## AGRICULTURAL MARKETING SERVICE

## MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payment to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$70,000 for employment under 5 U.S.C. 3109, \$31,912,000; of which not less than \$1,480,000 shall be available for the Wholesale Market Development Program: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

## LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$30,910,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

## FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than \$5,670,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

Transfer of  
funds

16 USC 742a.

7 USC 674 note.  
7 USC 1911 note.

## TRANSPORTATION OFFICE

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$20,000 for employment under 5 U.S.C. 3109, \$2,367,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

## PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$1,000,000.

## PACKERS AND STOCKYARDS ADMINISTRATION

7 USC 181

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$5,000 for employment under 5 U.S.C. 3109, \$8,668,000.

## FARM INCOME STABILIZATION

## AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

## SALARIES AND EXPENSES

Transfer of funds.

16 USC 590h.

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1008 and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1508 and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); and laws pertaining to the Commodity Credit Corporation, \$55,962,000: *Provided*, That, in addition, not to exceed \$314,818,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund for a total of \$370,780,000: *Provided further*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

## DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout

if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, \$7,000,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

### CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as herein-after provided:

15 USC 713a-10.

*Ante*, p. 1043.  
31 USC 9104.

#### FEDERAL CROP INSURANCE CORPORATION

##### ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), \$235,200,000.

##### SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504(a) of the Federal Crop Insurance Act (7 U.S.C. 1504), \$150,000,000.

#### FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, \$115,575,000, and for an additional amount of \$27,658,000, to reimburse the Federal Crop Insurance Corporation Fund for agents' commission obligations incurred during prior years, but not previously reimbursed, as provided for under the provisions of section 516(a) of the Act.

7 USC 1508.

7 USC 1516.

#### COMMODITY CREDIT CORPORATION

##### REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), \$3,783,244,000.

## DIRECT LOAN LEVELS

15 USC 713a-10.

As authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not less than \$500,000,000 in fiscal year 1983: *Provided*, That none of the funds in this Act may be used to carry out a program of loan guarantees by the Corporation for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

## TITLE II—RURAL DEVELOPMENT PROGRAMS

## RURAL DEVELOPMENT ASSISTANCE

## OFFICE OF RURAL DEVELOPMENT POLICY

7 USC 2201,  
2204, 2204a.

7 USC 2204b.

For necessary expenses, not otherwise provided for, of the Office of Rural Development Policy in providing leadership, coordination, and related services in carrying out the rural development activities of the Department of Agriculture, as authorized by section 603 of the Rural Development Act of 1972, as amended (7 U.S.C. 2204b); and section 2 of the Rural Development Policy Act of 1980 (7 U.S.C. 1921), and for monitoring Rural Development Planning Grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), \$2,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$5,000 of this appropriation shall be available for employment under 5 U.S.C. 3109.

## FARMERS HOME ADMINISTRATION

## RURAL HOUSING INSURANCE FUND

42 USC 1487.

42 USC 1471.

42 USC 1471.

42 USC 1490a.

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, \$24,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, \$3,261,000,000 of which not less than \$3,259,000,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary; and not to exceed \$5,000,000 for advances as authorized by section 501(e) of such Act.

During fiscal year 1983, no more than 22,310 units may be assisted under rental assistance agreements entered into or extended during the year pursuant to authority under section 521(a)(2) of the Housing Act of 1949, as amended, and the total new obligation incurred over the life of these agreements shall not exceed \$123,745,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That the life of the agreements entered into or extended during fiscal year 1983 shall not exceed five years.

42 USC 1490a.

For an additional amount to reimburse the rural housing insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including \$6,728,000, as authorized by section 521(c) of the Act, \$1,109,722,000, and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund

to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

42 USC 1490a.

#### AGRICULTURAL CREDIT INSURANCE FUND

Loans may be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928-1929, or guaranteed, as follows: real estate loans, \$840,100,000, including not less than \$775,000,000 for farm ownership loans of which \$75,000,000 shall be guaranteed loans; and not less than \$53,100,000 for water development, use, and conservation loans of which \$6,000,000 shall be guaranteed loans; operating loans, \$1,510,000,000 of which \$50,000,000 shall be guaranteed loans; and emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters: *Provided*, That 20 per centum of the farm ownership loans and 20 per centum of the operating loans insured, or made to be sold and insured, under this provision may be for low-income limited resource borrowers; guaranteed economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, \$600,000,000.

7 USC note prec 1961.

For an additional amount to reimburse the agricultural credit insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), \$682,074,000.

#### RURAL DEVELOPMENT INSURANCE FUND

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661-664, as follows: insured water and sewer facility loans, \$375,000,000; guaranteed industrial development loans, \$300,000,000; and insured community facility loans, \$130,000,000.

For an additional amount to reimburse the rural development insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), \$336,217,000.

#### RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), \$125,000,000, to remain available until expended, pursuant to section 306(d) of the above Act.

#### VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, \$12,500,000.

42 USC 1474.

#### RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), \$12,500,000, to be

derived from the unexpended balances of amounts appropriated under this head in prior years.

#### MUTUAL AND SELF-HELP HOUSING

42 USC 1490c. For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1940(c)), \$12,500,000.

#### RURAL COMMUNITY FIRE PROTECTION GRANTS

16 USC 2106. For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), \$3,250,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

#### COMPENSATION FOR CONSTRUCTION DEFECTS

42 USC 1479. For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, \$2,000,000.

#### SALARIES AND EXPENSES

42 USC 2841. For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs for which Farmers Home Administration has the responsibility for administering, \$289,288,000, together with not more than \$5,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided*, That, in addition, not to exceed \$1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed \$500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during

7 USC 1929.  
42 USC 1487.  
42 USC 1472.

7 USC 1981a  
note.



the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

#### RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

7 USC 901-950b.

#### RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than \$850,000,000 nor more than \$1,100,000,000, and rural telephone loans, not less than \$250,000,000 nor more than \$325,000,000, to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1983, total commitments to guarantee loans pursuant to section 306, shall be not less than \$4,745,000,000, nor more than \$5,950,000,000 of contingent liability for total loan principal: *Provided further*, That as a condition of approval of insured electric loans during fiscal year 1983, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982.

7 USC 936.

#### RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, \$30,000,000, to remain available until expended (7 U.S.C. 901-950(b)).

7 USC 901-950b.

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1983, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than \$185,000,000 nor more than \$220,000,000.

*Ante*, p. 1043.  
31 USC 9104.

#### RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, \$91,000.

7 USC 1926,  
1932.

#### SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Com-

7 USC 901-950b.

munity Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1983, including not to exceed \$7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 for employment under 5 U.S.C. 3109, \$28,945,000.

## CONSERVATION

### SOIL CONSERVATION SERVICE

#### CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant material centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100; purchase and erection or alteration of permanent buildings; and operation and maintenance of aircraft, \$326,198,000, of which not less than \$3,742,000 is for snow survey and water forecasting and not less than \$3,757,000 is for operation of the plant materials centers: *Provided*, That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed \$7,500, except for one building to be constructed at a cost not to exceed \$75,000 and eight buildings to be constructed or improved at a cost not to exceed \$45,000 per building and except that alterations or improvements to other existing permanent buildings costing \$5,000 or more may be made in any fiscal year in an amount not to exceed \$1,500 per building: *Provided further*, That no part of this appropriation shall be available for the construction of any such building on land not owned by the Government: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed \$25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

#### RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009),

\$16,068,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$60,000 shall be available for employment under 5 U.S.C. 3109.

#### WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), \$8,675,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 shall be available for employment under 5 U.S.C. 3109.

#### WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, \$194,925,000 (of which \$23,200,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$10,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed \$200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That \$26,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That not to exceed \$1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

16 USC  
590a-590f.

33 USC 701a.

7 USC 1931,  
1932.

16 USC 1531  
note.

#### RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), \$25,744,000: *Provided*, That \$4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of

7 USC 1011.

16 USC  
590a-590f.  
95 Stat.  
1337-1341.

7 USC 1931,  
1932.

section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 shall be available for employment under 5 U.S.C. 3109.

#### GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), \$21,315,000, to remain available until expended.

#### AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

##### AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1508, and 1510), and including not to exceed \$15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, \$190,000,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than \$3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other

16 USC 590q.

Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program \$2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

58 Stat. 1147.

#### FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, \$12,500,000, to remain available until expended, as authorized by that Act.

#### WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), \$8,800,000, to remain available until expended.

### TITLE III—DOMESTIC FOOD PROGRAMS

#### FOOD AND NUTRITION SERVICE

##### CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788); \$3,178,000,000, of which \$896,324,000 is hereby appropriated, and \$2,281,676,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including \$80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act: *Provided*, That funds provided herein shall remain available until September 30, 1984: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the

Transfer of funds.

42 USC 1772.

42 USC 1755.

42 USC 1776a.  
42 USC 1776.42 USC 1751  
note.42 USC 1771  
note.

42 USC 1776b.

42 USC 1751  
note, 1771 note.

42 USC 1776.  
42 USC 1761.

42 USC 1788.

National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That if the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be \$50,000: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

#### SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), \$20,100,000, to remain available until September 30, 1984: *Provided*, That only claims for reimbursement for milk served during fiscal year 1983 submitted to State agencies prior to January 1, 1984, shall be eligible for reimbursement.

#### FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), \$1,060,000,000: *Provided*, That funds provided herein shall remain available until September 30, 1984.

#### COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including the pilot projects in Detroit, New Orleans, and Des Moines, \$32,600,000: *Provided*, That funds provided herein shall remain available until September 30, 1984.

#### FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), \$10,565,657,000: *Provided*, That funds provided herein shall remain available until September 30, 1983, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised

7 USC 2027.

Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

*Ante*, p. 928.  
31 USC 1511 *et*  
*seq.*

7 USC 2025.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), \$250,000,000 should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1983: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

#### NUTRITION ASSISTANCE FOR PUERTO RICO

For monthly payments to the Commonwealth of Puerto Rico for nutrition assistance as authorized by 7 U.S.C. 2028, \$825,000,000.

#### FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), \$156,266,000.

#### FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, \$82,146,000, of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 shall be available for employment under 5 U.S.C. 3109.

#### HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition, consumer use and economies of food utilization, and for the collection and dissemination of information relating thereto, \$8,096,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

### TITLE IV—INTERNATIONAL PROGRAMS

#### FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural

work, including not to exceed \$110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$74,454,000: *Provided*, That not less than \$255,000 of the funds contained in this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

#### GENERAL SALES MANAGER

##### (ALLOTMENT FROM COMMODITY CREDIT CORPORATION)

15 USC 713a-10.

Report to  
congressional  
committees

Not to exceed \$5,599,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commodities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

7 USC 1707a,  
1707b.

#### PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, not more than \$859,000,000, of which \$378,000,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, and carryover balances; and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than \$650,000,000, of which \$650,000,000 is hereby appropriated: *Provided*, That not to exceed 10 percent of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

7 USC 1701,  
1727.

7 USC 1721.

#### OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, international scientific and technical cooperation in the Department of



Agriculture, \$3,578,000, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

## TITLE V—RELATED AGENCIES

### FOOD AND DRUG ADMINISTRATION

#### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Food and Drug Administration; for payment of salaries and expenses for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; for rental of special purpose space in the District of Columbia or elsewhere, \$330,188,000.

#### STANDARD LEVEL USER CHARGES

For payment of standard level user charges pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, \$18,942,000.

40 USC 601 note

### COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed \$25,000 for employment under 5 U.S.C. 3109, \$22,892,000 to be available as authorized by law: *Provided*, That not to exceed \$700 shall be available for official reception and representation expenses.

### FARM CREDIT ADMINISTRATION

#### REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

#### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$17,954,000 (from assessments collected from farm credit agencies) shall be obligated during the current fiscal year for administrative expenses including the hire of one passenger motor vehicle.

## TITLE VI—GENERAL PROVISIONS

Sec. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Consulting  
service  
contracts

Passenger motor vehicles.	SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1983 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirteen (713) passenger motor vehicles of which six hundred sixty-two (662) shall be for replacement only, and for the hire of such vehicles.
Uniforms.	SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).
7 USC 1623a.	SEC. 604. Not less than \$1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.
7 USC 427i.	
Marihuana	SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations who harvest or knowingly permit to be harvested for illegal use, marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.
	SEC. 606. Advances of money from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture to chiefs of field parties.
Working capital fund.	SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed \$1,500,000: <i>Provided</i> , That no funds appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.
	SEC. 608. New obligatory authority provided for the following appropriation items in this Act shall remain available until expended: Scientific Activities Overseas (Foreign Currency Program); Public Law 480; Mutual and Self-Help Housing; Rural Housing for Domestic Farm Labor; Watershed and Flood Prevention Operations; Resource Conservation and Development; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Research Service, Buildings and Facilities; and Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees.
7 USC 1691 note	SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.
	SEC. 610. Not to exceed \$50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.
7 USC 1762.	
Part-time and intermittent assistance.	SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation County Committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with

natural disasters, such as forest fires, drought, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Disapproved  
regulations.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, the Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 75 per centum of the value of the loans closed during the fiscal year.

Beneficial  
ownership  
certificates.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of law, watershed projects under Public Law 83-566 are hereby exempted from the requirements of Executive Orders 12113 and 12141.

Watershed  
projects  
42 USC 1962  
note.  
16 USC 1001  
note.  
42 USC 1962  
note.  
7 USC 612c note.

SEC. 620. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 621. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate

Loans or credits  
to Polish  
People's  
Republic.

explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

GSA  
reimbursement  
restriction.

SEC. 622. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of standard level user charges in excess of the fiscal year 1982 level.

Water projects.

SEC. 623. In fiscal year 1983, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

16 USC 1001  
note.

33 USC 701-1.

SEC. 624. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

15 USC 713a-10.

SEC. 625. Notwithstanding any other provision of this Act, appropriations under this Act to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, are \$10,466,057,000, and, as authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not more than \$500,000,000 in fiscal year 1983.

Approved December 18, 1982.

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#### LEGISLATIVE HISTORY—H.R. 7072 (S. 2911):

HOUSE REPORTS: No. 97-800 (Comm. on Appropriations) and 97-957 (Comm. of Conference).

SENATE REPORTS: No. 97-566 (Comm. on Appropriations) and No. 97-545 accompanying S. 2911 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 21, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Dec. 15, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments, in others with amendments; Senate agreed to conference report, and concurred in House amendments.

Public Law 97-371  
97th Congress

An Act

To provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the United States Court of Claims, and for other purposes.

Dec. 20, 1982

[H.R. 6403]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the funds appropriated on October 31, 1978, and March 2, 1979, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724A), in satisfaction of judgments granted to the Wyandot (hereinafter "Wyandotte") Tribe in docket 139 by the Indian Claims Commission and in docket 141 by the United States Court of Claims, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

Wyandot Tribe  
of Indians of  
Oklahoma.  
Distribution and  
use of funds.  
*Ante*, p. 917.  
31 USC 1304.  
*Ante*, p. 1062.  
39 USC 409.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the funds between the Wyandotte Tribe of Oklahoma and the absentee Wyandotte descendants as follows:

308/510ths to the Wyandotte Tribe of Oklahoma; and  
202/510ths to the absentee Wyandotte descendants.

SEC. 3. The Wyandotte Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal government body and approved by the Secretary, of all members of the Wyandotte Tribe of Oklahoma who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 80 per centum of the Wyandotte Tribe of Oklahoma's share of the funds, in a sum as equal as possible, to all persons listed on this roll. Any amount remaining after the per capita payment shall be utilized as provided in section 3(b)(2)(iii) of this Act.

Ancestry roll.

(b) The remaining 20 per centum shall be utilized as follows:

(1) A sum of \$100,000 shall be utilized to purchase land for the tribe to be held in trust status by the Secretary.

(2) The balance shall be invested by the Secretary, pursuant to the Act of June 24, 1938 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Wyandotte Tribe of Oklahoma upon the approval of the Secretary of the tribe's plan of operation and budget as set forth in Wyandotte Tribe of Oklahoma Resolution Numbered 9479, adopted September 4, 1979, as follows:

(i) 33½ per centum shall be utilized toward the upkeep and maintenance of the Wyandotte Cultural Center and other sites as may in the future be developed by the tribe.

(ii) 33½ per centum shall be utilized for the upkeep and maintenance of the Wyandotte Tribal Cemetery at Wyandotte, Oklahoma.

(iii) 33½ per centum shall be placed in the custody of the secretary/treasurer of the tribe and, with the approval of the Business Committee of the Wyandotte Tribe of Oklahoma, utilized for the administration of the tribe: *Provided*, That none of these funds be expended for salaries.

Ancestry roll.

**SEC. 4.** A roll shall be prepared by the Secretary of persons: not members of the Wyandotte Tribe of Oklahoma, on, or lineally descended from persons on, the "Census of Absentee or Citizen Wyandotte Indians" compiled by Joel T. Olive, dated November 18, 1896, as corrected in circular of October 28, 1904, by W. A. Richards, Commissioner of the General Land Office; and born on or prior to and living on the date of this Act. The Secretary's determination concerning eligibility for inclusion on this roll shall be final. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution, of the absentee Wyandotte's shares, in a sum as equal as possible, to all persons listed on this roll.

Per capita payments.

**SEC. 5.** The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined as distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such individuals.

Tax exemption.

**SEC. 6.** None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

42 USC 1305.  
Rules and regulations.

**SEC. 7.** The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Approved December 20, 1982.

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**LEGISLATIVE HISTORY—H.R. 6403:**

HOUSE REPORT No. 97-819 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.  
Dec. 8, considered and passed Senate.

Public Law 97-372  
97th Congress

An Act

To provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the United States Court of Claims, and for other purposes.

Dec. 20, 1982

[H.R. 5795]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, the funds appropriated on March 10, 1978, and August 22, 1979, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724A), in satisfaction of judgments granted to the Shawnee Tribe in dockets 64, 335, and 338 by the Indian Claims Commission and in docket 64-A by the United States Court of Claims, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

Shawnee Tribe  
of Indians of  
Oklahoma.  
Distribution and  
use of funds.  
*Ante*, p. 917.  
31 USC 1304.  
*Ante*, p. 1062.  
39 USC 409.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the funds among the Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma and the Cherokee Band of Shawnee descendants as follows:

514/1378ths to the Absentee Shawnee Tribe of Oklahoma;  
117/1378ths to the Eastern Shawnee Tribe of Oklahoma; and  
747/1378ths to the Cherokee Band of Shawnee descendants.

SEC. 3. The Absentee Shawnee Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal governing body and approved by the Secretary, of all members of the Absentee Shawnee Tribe of Oklahoma who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 75 per centum of the Absentee Shawnee Tribe's share of the funds, in a sum as equal as possible, to all persons listed on this roll.

Ancestry roll.

(b) The remaining 25 per centum shall be utilized as follows:

(1) A sum, not to exceed \$150,000 shall be utilized as matching funds to acquire an Economic Development Administration (EDA) grant from the Department of Commerce to construct a multipurpose restaurant: *Provided*, That if the tribe is unable to acquire this grant that the funds herein discussed be distributed according to the provisions of section 3(b)(2).

(2) The Executive Committee of the Absentee Shawnee Tribe of Oklahoma shall prepare, subject to the approval of the Secretary, administrative guidelines for the remainder of the funds for use in education, health, economic, and related programs which will benefit the entire tribe.

Guidelines.

SEC. 4. The Eastern Shawnee Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal governing body and approved by the Secretary, of all members of the Eastern Shawnee Tribe of Oklahoma who were born on or prior to and living on the date of this Act.

Ancestry roll.

Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 80 per centum of the Eastern Shawnee Tribe's share of the funds, in a sum as equal as possible to all persons listed on this roll.

(b) The remaining 20 per centum shall be utilized for a tribal land purchase program pursuant to the provisions of part 120-A of section 25, Code of Federal Regulations: *Provided*, That no salaries shall be paid from these funds: *Provided further*, That the funds shall be in the custody of the tribal secretary/treasurer and all expenditures shall be approved by the Eastern Shawnee Tribe of Oklahoma business committee.

Ancestry roll.

SEC. 5. A roll shall be prepared by the Secretary based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 994), and any other records acceptable to him, of all the lineal descendants, except members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma, of the Shawnee Nation as it existed in 1854, who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of the Cherokee Band of Shawnee descendant's share of the funds, in a sum as equal as possible, to all persons listed on this roll.

Per capita payments.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trust, as the Secretary determines to be necessary to protect the interests of such individuals.

Tax exemption.

SEC. 7. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

42 USC 1305.  
Rules and regulations.

SEC. 8. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Approved December 20, 1982.

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LEGISLATIVE HISTORY—H.R. 5795:

HOUSE REPORT No. 97-817 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.  
Dec. 8, considered and passed Senate.



Public Law 97-373  
97th Congress

An Act

To amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

Dec. 20, 1982

[S. 2177]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 90-537 (82 Stat. 885), as amended is further amended to provide for cost indexing as may be justified by reason of ordinary fluctuations in construction costs.*

Colorado River  
Basin Project  
Act,  
amendment.  
43 USC 1501  
note.

Appropriation  
authorization.  
43 USC 1528.

Section 309(b), first sentence, is amended to read: "There is also authorized to be appropriated \$100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from the date of the Colorado River Basin Project Act: *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities."

Approved December 20, 1982.

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LEGISLATIVE HISTORY—S. 2177:

HOUSE REPORTS: No. 97-776 and No. 97-776, Pt. 2 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-389 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 19, considered and passed Senate.

Sept. 30, considered and passed House, amended.

Dec. 8, Senate concurred in House amendment with an amendment.

Dec. 9, House agreed to Senate amendment.

Public Law 97-374  
97th Congress

An Act

Dec. 20, 1982  
[S. 764]

To provide for protection of the John Sack cabin, Targhee National Forest in the State of Idaho.

John Sack cabin,  
Targhee  
National Forest,  
Idaho.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purpose of providing for the public use and enjoyment of the John Sack cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Island Park Interpretive Association and other interested organizations, shall take such action as may be necessary in order to provide for the protection and maintenance of the John Sack cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

Approved December 20, 1982.

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**LEGISLATIVE HISTORY—S. 764:**

SENATE REPORT No. 97-184 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 22, considered and passed Senate.

Vol. 128 (1982): Dec. 10, considered and passed House.

Public Law 97-375  
97th Congress

An Act

To discontinue or amend certain requirements for agency reports to Congress.

Dec. 21, 1982

[H. R. 6005]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Congressional Reports Elimination Act of 1982”.

Congressional  
Reports  
Elimination Act  
of 1982.

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 616(b) of the Act of December 15, 1980, entitled “An Act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes” (31 U.S.C. 28(b); 94 Stat. 3117), is repealed.

31 USC 1114  
note.

(b) Section 126(b) of the Military Construction Act of 1981 (31 U.S.C. 28, note; 94 Stat. 1869) is repealed.

31 USC 1114  
note.

REPORT BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 102. Section 6002(g) of the Solid Waste Disposal Act (42 U.S.C. 6962(g)) is amended to strike everything after the word “resources” and to insert in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 103. (a) Section 1303(d) of the Food and Agriculture Act of 1977 (7 U.S.C. 2011, note; 91 Stat. 980) is repealed.

(b) Paragraph (a) of the Act of March 4, 1913, entitled “An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen” (16 U.S.C. 502; 37 Stat. 843), is amended by striking out the second sentence.

(c) Section 9 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590i; 50 Stat. 329) is amended by striking out the third sentence.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 104. (a) Section 1081 of title 10, United States Code, is amended by striking out the second sentence.

(b) Section 2677(c) of title 10, United States Code, is repealed.

(c) Section 2110(b) of title 10, United States Code, is amended by striking out “The Secretary of each military department shall report to Congress in April of each year on the progress of the flight instruction program.”.

## REPORT BY THE DEPARTMENT OF EDUCATION

SEC. 105. Section 112(b)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 732(b)(3); 87 Stat. 372) is repealed.

## REPORTS UNDER THE DEPARTMENT OF ENERGY

SEC. 106. (a) Section 203 of the Clean Air Act Amendments of 1977 (42 U.S.C. 7551) is amended by—

(1) striking out subsection (b); and

(2) striking out the subsection designator “(a)”.

(b) The Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 is amended by striking out the last sentence of section 7(e)(1) (15 U.S.C. 2506(e)(1)).

15 USC 3803.

(c) Section 4(c)(8) of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808(c)) is amended by striking out “and report to the Congress on”.

Repeal.

(d) Section 742 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8452) is repealed.

## REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 107. (a) Section 1120(b) of the Social Security Act (42 U.S.C. 1320) is amended by striking out subsection (b) and by striking out “(a)”.

(b) Section 329(f)(5) of the Public Health Service Act (42 U.S.C. 254b(f)(5)) is amended by striking out the last sentence.

## REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 108. (a) Section 4 of the joint resolution of August 14, 1976, entitled “Joint resolution providing for Federal participation in preserving the Tule Elk population in California” (16 U.S.C. 673g; 90 Stat. 1189), is amended by striking out the final sentence thereof.

Repeal.

(b) Section 3 of the Act of August 21, 1951 (25 U.S.C. 673; 65 Stat. 195) is repealed.

(c) The Tribally Controlled Community College Assistance Act of 1978 is amended by striking out subsection (e) of section 106 and the last sentence of subsection (c)(2) of section 107 (25 U.S.C. 1807(e) and 1808(c)(2); 92 Stat. 1327).

(d) Section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) is amended by striking out the last sentence.

## REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 109. (a) Section 4352(b) of title 18, United States Code (88 Stat. 1141), is repealed.

Repeal.

(b) Section 203 of the Truth in Lending Act (18 U.S.C. 891, note; 82 Stat. 162) is repealed.

## REPORTS BY THE DEPARTMENT OF LABOR

SEC. 110. (a) Section 6(f) of Public Law 90-83 (29 U.S.C. 606; 81 Stat. 221) is repealed.

(b) Section 41(b)(1) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941(b)(1); 72 Stat. 835) is amended by striking out “and from time to time make to Congress such recom-

mendations as he may deem proper as to the best means of preventing such injuries”.

(c) The second sentence of section 19(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(b); 84 Stat. 1590) is repealed.

#### REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 111. (a) Section 151(g) of title 23, United States Code (87 Stat. 285), is amended by striking out the third and fourth sentences and inserting in lieu thereof, “No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State.”.

(b) Section 602 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 792; 87 Stat. 1022) is repealed. Repeal.

(c) Section 4417a(19) of the Revised Statutes (46 U.S.C. 391a(19)) is repealed.

(d) Section 515 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 835; 90 Stat. 82) is repealed.

(e) Section 10 of the Emergency Rail Services Act of 1970 (45 U.S.C. 669; 84 Stat. 1978) is repealed. Repeal.

#### REPORT BY THE DEPARTMENT OF THE TREASURY

SEC. 112. Section 602(c) of the Act of June 3, 1980, entitled “An Act to provide for increased participation by the United States in the Inter-American Development Bank, and the African Development Fund” (22 U.S.C. 262j(c); 94 Stat. 433), is repealed.

#### REPORT BY THE INTERSTATE COMMERCE COMMISSION

SEC. 113. Section 10327(j) of title 49, United States Code (92 Stat. 1350), is amended by striking out the last two sentences.

#### REPORT BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 114. Section 2304(e) of title 10, United States Code, is repealed.

#### REPORT BY THE NUCLEAR REGULATORY COMMISSION

SEC. 115. Section 11 of the Act of November 6, 1978, entitled “An Act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes” (42 U.S.C. 2205a; 92 Stat. 2953), is repealed. Repeal.

## TITLE II—MODIFICATIONS

#### REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 201. (a) Section 552a(e)(4) of title 5, United States Code, is amended by striking out “at least annually” and inserting in lieu thereof “upon establishment or revision”.

(b) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

“(p) ANNUAL REPORT.—The President shall annually submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

5 USC 552a note.

“(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding year;

“(2) describing the exercise of individual rights of access and amendment under this section during such year;

“(3) identifying changes in or additions to systems of records;

“(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.”.

Effective date.

(c) Effective July 1, 1983, section 6(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking out the first sentence and inserting in lieu thereof the following: “The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year.”.

#### REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 202. (a) Section 302(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(d)) is amended to read as follows:

“(d) The Secretary shall submit a biennial report to the Congress, on or before March 1 of every other year beginning in 1984, setting forth a comprehensive review of his actions during the previous two fiscal years undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.”.

(b) Section 7 of the National Climate Program Act of 1978 (15 U.S.C. 2906) is amended by striking out “not later than January 30 of each year” and inserting in lieu thereof “not later than March 31 of each year”.

(c) Section 4(a) of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (33 U.S.C. 1703(a)) is amended by striking out “and a revision of the plan shall be prepared and so submitted by September 15 of each odd-numbered year occurring after 1979” and inserting in lieu thereof “and a revision of the plan shall be prepared and so submitted by September 15 every three years after 1979”.

(d) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the following: “or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act,”.

#### REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 203. (a)(1) Section 808(a) of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520(a); 91 Stat. 334) is amended by striking out clause (1) and by striking out “(2)”.

(2) Section 409(a) of the Act of November 19, 1969 (50 U.S.C. 1511(a); 83 Stat. 209), is amended by adding the following sentence at the end thereof: “The report shall include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directly or under contract, which

involve the use of human subjects for the testing of chemical or biological agents.”.

(b) Section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-11; 69 Stat. 585) is amended by striking out “odd-numbered years” and inserting in place thereof “the first odd-numbered year following the year in which the Presidential election is held”.

(c) Section 2455(b) of title 10, United States Code, is amended by striking out “yearly period ending with the preceding December 31” and inserting “preceding fiscal year”.

#### REPORT BY THE DEPARTMENT OF EDUCATION

SEC. 204. Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b); 79 Stat. 1264) is amended by striking out “which shall include an index and analysis” and inserting in lieu thereof “listing”.

#### REPORT BY THE DEPARTMENT OF ENERGY

SEC. 205. (a) Section 208(c) of the Department of Energy Organization Act (42 U.S.C. 7138(c); 91 Stat. 576) is amended to read as follows:

“(c)(1) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

“(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

“(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to subparagraph (A);

“(C) an identification of each significant recommendation described in previous reports under this subsection on which corrective action has not been completed;

“(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

“(E) information concerning the numbers and types of audit reports completed by the Office during the reporting period.

“(2) Within sixty days of the transmission of each semiannual report to the Congress, the Secretary shall make copies of such report available to the public upon request and at a reasonable cost.”.

(b) Section 208(d) of such Act is amended by striking out “thirty days” and inserting in lieu thereof “seven days”.

Contents.

Public  
availability.

42 USC 7138

#### REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 206. (a) Section 336A of the Public Health Service Act (42 U.S.C. 254i) is amended in the matter preceding paragraph (1) by striking out “on May 1 of each year”.

(b) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the last two sentences and insert-

21 USC 301

ing in lieu thereof the following: "All agencies except the Department of Health and Human Services and the Federal Trade Commission shall submit their reports in January of each year. The Department of Health and Human Services shall include this report in its annual report to Congress on activities under the Federal Food, Drug, and Cosmetic Act, and the Federal Trade Commission shall include this report in the Commission's annual report to Congress."

Contents.

(c) Subsections (a) and (b) of section 204 of Public Law 94-505 (42 U.S.C. 3524 (a), (b)) are amended to read as follows:

"SEC. 204. (a) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous reports under this section on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

42 USC 3525.

"(5) a summary of each report made to the Secretary under section 205(b)(2) during the reporting period; and

"(6) information concerning the numbers and types of audit reports completed by the Office during the reporting period.

Public availability.

"(b) Within sixty days of the transmission of each semiannual report to the Congress, the Secretary shall make copies of such report available to the public upon request and at a reasonable cost."

#### REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 207. (a) Section 817 of the Housing Act of 1954 (12 U.S.C. 1701p; 68 Stat. 648) is amended by striking out ", and shall also contain" and all that follows through "that section".

(b) Section 311(4) of the Energy Conservation and Production Act (42 U.S.C. 6840(4); 90 Stat. 1125) is amended by inserting before the period at the end thereof the following: ", except that, with respect to reports transmitted to the Congress after August 14, 1981, such reports shall be transmitted biennially".

#### REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 208. (a)(1) The second proviso of the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564), is amended to read as follows: "*Provided further*, That the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made:"



(2) The last proviso of said Act of July 1, 1932, is amended by striking out "sixty legislative days" each place it appears and, in each instance, inserting in lieu thereof "ninety calendar days".

(b) Section 1136 of the Education Amendments of 1978 (25 U.S.C. 2016; 92 Stat. 2327) is amended by adding the following at the end thereof: "Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include (1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) and recommendations with respect to the future use of such funds; (2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and (3) the plans required by section 1121(f), and 1122(c); and 1125(b) of this Act (25 U.S.C. 2001(f), 2002(c), and 2005(b))."

Contents.

(c) The first sentence of section 3 of the joint resolution of August 14, 1976, entitled "Joint resolution providing for Federal participation in preserving the Tule Elk population in California" (16 U.S.C. 673f; 90 Stat. 1189), is amended by striking out "of each year" and inserting in lieu thereof "of 1983 and each third year thereafter".

#### REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 209. (a) Section 918(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693p(a); 92 Stat. 3740) is amended by striking out the first and fourth sentences thereof and inserting in lieu of the first sentence the following: "Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board shall make reports to the Congress concerning the administration of its functions under this title, including such recommendations as the Board deems necessary and appropriate."

(b) Section 114 of the Truth in Lending Act (title I of the Consumer Credit Protection Act) (15 U.S.C. 1613; 82 Stat. 151) is amended by striking out the first sentence and inserting in lieu thereof the following: "Each year the Board shall make a report to the Congress concerning the administration of its functions under this title, including such recommendations as the Board deems necessary or appropriate."

#### REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 210. (a) Section 409 of the Staggers Rail Act of 1980 (49 U.S.C. 1654a; 94 Stat. 1948) is amended by adding at the end thereof: "In each report the Secretary shall advise the Congress on the past and anticipated financial condition and operations during the fiscal year of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) and of the Obligation Guarantee Fund established under section 511(b) of that Act. In addition, the Secretary shall include in the report information on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970 (Public Law 91-663), throughout the existence of such loan."

45 USC 822

45 USC 831.

45 USC 661 note.

(b) Section 152(g) of title 23, United States Code (92 Stat. 2723), is amended by inserting “(including but not limited to any projects for pavement marking)” after “program” in the third sentence.

REPORT BY THE DEPARTMENT OF THE TREASURY

SEC. 211. Subsection (c)(1) of section 701 of the International Financial Institutions Act (22 U.S.C. 262d(c)(1); 91 Stat. 1070) is amended by inserting immediately before “including” the following: “excluding section 704 and”.

REPORT BY THE FEDERAL ENERGY REGULATORY COMMISSION

SEC. 212. Section 4(d) of the Federal Power Act (16 U.S.C. 797(d); 41 Stat. 1065) is amended by striking out “Such report shall contain the names and show the compensation of the persons employed by the Commission.”.

REPORT BY THE NATIONAL LABOR RELATIONS BOARD

SEC. 213. Section 3(c) of the National Labor Relations Act (29 U.S.C. 153(c); 61 Stat. 139) is amended by striking out “stating in detail the cases it has heard, the decisions it has rendered, and an account of all moneys it has disbursed” and inserting in lieu thereof “summarizing significant case activities and operations for that fiscal year”.

REPORT BY THE NATIONAL SCIENCE FOUNDATION

SEC. 214. Subsection 4(j) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j); 64 Stat. 149) is amended to read as follows: “(j)(1) The Board shall render to the President, for submission to the Congress no later than January 15 of each even numbered year, a report on indicators of the state of science and engineering in the United States.

“(2) The Board shall render to the President for submission to the Congress reports on specific, individual policy matters related to science and engineering and education in science and engineering, as the Board, the President, or the Congress determines the need for such reports.”.

REPORT BY THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 215. The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601, et seq.; Public Law 94-282) is amended as follows:

42 USC 6618.

(1) section 209 is deleted; and

42 USC 6614.

(2) in section 205(a)(11), strike out “section 209” and insert in lieu thereof “section 206”;

42 USC 6615.

(3) section 206 is amended to read as follows:

“SCIENCE AND TECHNOLOGY REPORT AND OUTLOOK

5 USC app.

“SEC. 206. (a) Notwithstanding the provisions of Reorganization Plan Number 1 of 1977, the Director shall render to the President for submission to the Congress no later than January 15 of each odd numbered year, a science and technology report and outlook (hereinafter referred to as the ‘report’) which shall be prepared under the

guidance of the Office and with the cooperation of the Director of the National Science Foundation, with appropriate assistance from other Federal departments and agencies as the Office or the Director of the National Science Foundation deems necessary. The report shall include—

“(1) a statement of the President’s current policy for the maintenance of the Nation’s leadership in science and technology;

“(2) a review of developments of national significance in science and technology;

“(3) a description of major Federal decisions and actions related to science and technology that have occurred since the previous such report;

“(4) a discussion of currently important national issues in which scientific or technical considerations are of major significance;

“(5) a forecast of emerging issues of national significance resulting from, or identified through, scientific research or in which scientific or technical considerations are of major importance; and

“(6) a discussion of opportunities for, and constraints on, the use of new and existing scientific and technological information, capabilities, and resources, including manpower resources, to make significant contributions to the achievement of Federal program objectives and national goals.

“(b) The Office shall insure that the report, in the form approved by the President, is printed and made available as a public document.”; and

Public  
availability.

(4) in section 205(a)(11), insert “and the Congress” after “President”.

42 USC 6614.

#### REPORT BY THE VETERANS’ ADMINISTRATION

SEC. 216. Section 4142(h)(4) of title 38, United States Code, is amended by striking out the following “together with a summary of the reasons that such scholarships were not accepted”.

Approved December 21, 1982.

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#### LEGISLATIVE HISTORY—H.R. 6005 (S. 2258):

HOUSE REPORT No. 97-804 (Comm. on Government Operations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 20, considered and passed House.

Dec. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 51:

Dec. 21, Presidential statement.

Public Law 97-376  
97th Congress

An Act

Dec 21, 1982  
[H.R. 5553]

To provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the United States Court of Claims, and for other purposes.

Indians.  
Miami Tribe of  
Oklahoma and  
Indiana.  
Judgment funds,  
distribution.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the funds appropriated on July 27, 1979, in satisfaction of the award in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in dockets 124-B and 254 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the judgment funds in dockets 124-B and 254, together with the interest and investment income accruing thereon, between the two beneficiary groups, on the basis of the number of enrollees of each group as designated on the 1972 Miami Indians of Oklahoma and Indiana payment roll, prepared pursuant to the Act of June 2, 1972 (86 Stat. 199), with 1398/5,080ths to the tribal organization, the Miami Tribe of Oklahoma, and 3682/5,080ths to the descendant group which consists of the Miami Indians of Indiana and other Miami descendants.

Ancestry roll.

SEC. 3. For purposes of determining the number of lineal descendants of the Miami Indians of Indiana and other Miami descendants entitled to participate in such funds apportioned to the descendant group, the Secretary shall prepare a roll of all persons of Miami Indian ancestry who meet the following requirements for eligibility:

(a) They were born on or prior to, and living on, the date of this Act.

(b) Their name or the name of an ancestor from whom they claim eligibility appears on the roll of Miami Indians of Indiana of June 12, 1895, or the roll of "Miami Indians of Indiana, now living in Kansas, Quapaw Agency, I.T., and Oklahoma Territory", prepared and completed pursuant to the Act of March 2, 1895 (28 Stat. 903), or the roll of the Eel River Miami Tribe of Indians of May 27, 1889, prepared and completed pursuant to the Act of June 29, 1888 (25 Stat. 223), or the roll of the Western Miami Tribe of Indians of June 12, 1891 (26 Stat. 1001). No person whose name appears on the current tribal roll of the Miami Tribe of Oklahoma shall be eligible to be enrolled under this section. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

SEC. 4. On completion of the roll by the Secretary, as provided under section 3 of this Act, the funds apportioned to the descendant group, including the interest and investment income accruing thereon, shall be distributed equally to the individuals enrolled.

SEC. 5. (a) Of the apportioned share belonging to the Miami Tribe of Oklahoma, no more than 80 per centum of such funds, including the interest and investment income accruing thereon, shall be distributed on a per capita basis in amounts as equal as possible to all enrolled members. For purposes of determining the number of enrollees of the tribal organization, the membership roll shall be brought current pursuant to tribal enrollment procedures, to include all persons born on or prior to and living on the date of this Act.

(b) The remaining 20 per centum of such funds, including the interest and investment income accruing thereon, shall be held and invested by the Secretary pursuant to the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), or invested by the tribe, in a private trust arrangement as approved by the Secretary, and such funds shall be expended by the tribe in accordance with tribal plans and budgets approved by the Secretary, where the investments are handled by the Secretary, or in accordance with the provisions of the private trust agreement.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such individuals.

SEC. 7. The funds distributed per capita or made available for programing under this Act shall not be subject to Federal or State income taxes nor shall such funds be considered as income or resources in determining either eligibility for or the amount of assistance under the Social Security Act.

SEC. 8. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act; including the establishment of deadlines.

Per capita  
payments.

Tax exemption.

42 USC 1305  
Rules and  
regulations

Approved December 21, 1982.

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LEGISLATIVE HISTORY—H R 5553

HOUSE REPORT No 97-815 (Comm on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol 128 (1982)

Sept. 29, considered and passed House  
Dec. 8, considered and passed Senate

**\*Public Law 97-377**  
**97th Congress**

**Joint Resolution**

Dec. 21, 1982  
 [H.J. Res. 631]

Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

Continuing  
 appropriations  
 for fiscal year  
 1983.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:*

**TITLE I**

**FURTHER CONTINUING APPROPRIATIONS ACT, 1983**

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1982 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

Treasury, Postal Service, and General Government Appropriation Act, 1983.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed the House as of December 17, 1982, is different from that which would be available or granted under such Act as passed by the Senate as of December 17, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of December 17, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982: *Provided further*, That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to the House or the Senate but not passed by that House as of December 17, 1982, it shall be deemed as having been passed by that House.

(4) Whenever an Act listed in this subsection has been passed by only the House as of December 17, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations of the current rate or the rate permitted by the action of the House, whichever is

\*Note: The printed text of Public Law 97-377 is a reprint of the hand enrollment, signed by the President on December 21, 1982.

lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1982, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b)(1) Such amounts as may be necessary for continuing the activities of the Foreign Assistance Appropriations Act of 1982, Public Law 97-121, under the terms and conditions, and at the rate, provided for in the Act, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law or section 102 of this joint resolution: *Provided*, That amounts allocated to each country under this paragraph shall not exceed those provided in fiscal year 1982 and new country programs shall not be initiated unless submitted through the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That notwithstanding the provisions of this paragraph making amounts available or otherwise providing for levels of program authority, the following amounts only shall be available and the following levels of authority only shall be provided for the following accounts or under the following headings: \$284,100,437 for payment to the "Inter-American Development Bank" and not to exceed \$828,137,742 in callable capital subscriptions; \$126,041,553 for payment to the "International Bank for Reconstruction and Development" and not to exceed \$1,530,275,913 in callable capital subscriptions; \$700,000,000 for payment to the "International Development Association"; \$131,882,575 for payment to the "Asian Development Bank" and not to exceed \$2,243,811 in callable capital subscriptions; \$50,000,000 for payment to the "African Development Fund"; \$249,002,000 for "International Organizations and Programs"; including the provisions of section 103(g) of the Foreign Assistance Act of 1961, except that such funds shall be made available only in accordance with the Joint Explanatory Statement of the Committee of Conference accompanying the conference report on this joint resolution (H.J. Res. 631); \$140,288,000 for "Energy and selected development activities, Development Assistance"; \$25,000,000 for "International disaster assistance"; \$93,757,000 for "Sahel development program", of which not less than \$2,000,000 shall be available only for the African Development Foundation; \$35,403,000 for "Payment to the Foreign Service Retirement and Disability Fund"; \$1,700,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; \$2,576,000,000 for the "Economic Support Fund" (without applying prior year earmarking of funds for Sudan and Poland), of which not less than \$785,000,000 shall be available for Israel and not less than \$750,000,000 shall be available for Egypt; \$31,100,000 for "Peacekeeping operations"; \$335,000,000 for "Operating expenses of the Agency for International Development"; \$10,500,000 for "Trade and development"; \$109,000,000 for the "Peace Corps"; \$395,000,000 for "Migration and Refugee Assistance" (without applying prior year earmarking of funds); \$290,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and the provisions of title I of

95 Stat. 1647.

22 USC 2412.

22 USC 2680.

*Post*, p. 1909.

22 USC 2151a.

22 USC 2311.

22 USC 2763,  
2764.

22 USC  
2151a-2151d.

*Post*, p. 1909.

22 USC 2151z.

S. 2608, as reported, of which not less than \$110,000,000 shall be available for Turkey, not less than \$37,500,000 shall be available for Portugal, and not less than \$25,000,000 shall be available for Morocco; \$45,000,000 for "International Military Education and Training"; \$1,175,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act and the provisions of title I of S. 2608, as reported, of which not less than \$750,000,000 shall be allocated to Israel (\$1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the current fiscal year shall be allocated only to Israel) and not less than \$425,000,000 shall be allocated to Egypt; \$3,638,000,000 of contingent liability (of which not less than \$290,000,000 shall be available for Turkey, not less than \$52,500,000 shall be available for Portugal, not less than \$75,000,000 shall be available for Morocco, and not less than \$400,000,000 shall be available for Spain) for total commitments to guarantee loans under "Foreign Military Credit Sales"; not to exceed \$125,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed \$4,400,000,000 of gross obligations for the principal amount of direct loans and \$9,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States": *Provided further*, That none of the funds available under this paragraph may be made available for payment to the "International Finance Corporation": *Provided further*, That in addition to the funds made available under this paragraph for the "Economic Support Fund" \$85,000,000 is available for the "Economic Support Fund" to be transferred to the Agency for International Development for economic development assistance projects, under the terms and conditions of sections 103 through 106 of the Foreign Assistance Act of 1961, such projects to be approved through the established reprogramming processes of the Appropriations Committee of the House of Representatives and of the Senate, except that none of the funds provided herein shall be available for nondevelopment activities including balance of payments support, commodity imports, sector loans, and program loans: *Provided further*, That notwithstanding any other provision of this joint resolution or any other Act, \$5,500,000 of the funds provided for Honduras under the authority of this joint resolution shall not be made available until that country meets the final terms of the binding arbitration award established by the Inter-American Commercial Arbitration Commission as regards Construction Aggregates Corporation.

(2) Notwithstanding section 102 of this joint resolution, chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 128. TARGETING ASSISTANCE FOR THOSE LIVING IN ABSOLUTE POVERTY.—In carrying out this chapter, the President in fiscal year 1983, shall attempt to use not less than 40 per centum of the funds made available to carry out this chapter to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports, technical advice, consulting services, or any other items unless (A)



they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not constitute the major part of such facilities, goods, and services.”: *Provided further*, That within six months after the date of approval of this joint resolution, the Administrator of the Agency for International Development shall report to Congress on the implementation of this provision, the types of projects determined to meet these requirements, and the effect on the overall United States foreign assistance program.

(c) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriation Act, 1983, at a rate of operations and to the extent and in the manner provided, to be effective as if it had been enacted into law as the regular appropriation Act, as follows:

### AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military functions administered by the Department of Defense, and for other purposes, namely:

Report to  
Congress.  
22 USC 2151z  
note.

Department of  
Defense  
Appropriation  
Act, 1983.

### TITLE I

#### MILITARY PERSONNEL

##### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$14,454,848,000.

##### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; \$10,537,408,000.

##### MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of

temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); \$3,293,277,000.

#### MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$12,099,850,000.

#### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$1,247,250,000.

#### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or personnel while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$657,125,000.

#### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$170,900,000.

#### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10,

United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$358,925,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$1,698,800,000.

#### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$548,425,000.

### TITLE II

#### RETIRED MILITARY PERSONNEL

##### RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; \$16,154,800,000.

10 USC 1448  
note, 1431 *et seq.*

### TITLE III

#### OPERATION AND MAINTENANCE

##### OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$7,310,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$15,847,425,000, of

which not less than \$1,240,000,000 shall be available only for the maintenance of real property facilities.

#### ARMY STOCK FUND

For the Army stock fund; \$221,138,000.

#### OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$2,620,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$21,079,712,000, of which not less than \$657,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than \$2,887,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further*, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981.

#### NAVY STOCK FUND

For the Navy stock fund; \$354,372,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$1,481,671,000, of which not less than \$218,000,000 shall be available only for the maintenance of real property facilities.

#### MARINE CORPS STOCK FUND

For the Marine Corps stock fund; \$11,812,000.

#### OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed \$4,490,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$16,915,766,000, of which not less than \$1,100,000,000 shall be available only for the maintenance of real property facilities.

#### AIR FORCE STOCK FUND

For the Air Force stock fund; \$161,600,000.

## OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; \$5,715,778,000: *Provided*, That not to exceed \$7,890,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than \$80,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities.

## DEFENSE STOCK FUND

For the Defense stock fund; \$160,500,000.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$705,584,000, of which not less than \$35,000,000 shall be available only for the maintenance of real property facilities.

## OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$637,507,000, of which not less than \$25,000,000 shall be available only for the maintenance of real property facilities.

## OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$51,094,000, of which not less than \$1,000,000 shall be available only for the maintenance of real property facilities.

## OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$765,735,000, of which not less

than \$17,500,000 shall be available only for the maintenance of real property facilities.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$1,195,067,000, of which not less than \$35,000,000 shall be available only for the maintenance of real property facilities.

#### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; \$1,822,603,000, of which not less than \$35,000,000 shall be available only for the maintenance of real property facilities.

#### NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; \$875,000, of which not to exceed \$7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed \$680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

**CLAIMS, DEFENSE**

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; \$147,500,000.

**COURT OF MILITARY APPEALS, DEFENSE**

For salaries and expenses necessary for the United States Court of Military Appeals; \$3,271,000, and not to exceed \$1,500 can be used for official representation purposes.

**TITLE IV****PROCUREMENT****AIRCRAFT PROCUREMENT, ARMY**

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$2,506,572,000, of which \$10,000,000 shall be available only for procurement of C-12 cargo aircraft for the Army National Guard, to remain available for obligation until September 30, 1985: *Provided*, That notwithstanding any other provision of this Act, after the head of the agency concerned gives written notification of a proposed multiyear contract for the CH-47D Helicopter Modernization Program to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives, such contract may not then be awarded until the end of a period of 45 days beginning on the date of such notification.

40 USC 255.

**MISSILE PROCUREMENT, ARMY**

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and

installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$2,287,000,000, of which \$422,100,000 shall be available only for purchase of the Multiple Launch Rocket System under a multiyear contract, to remain available for obligation until September 30, 1985.

#### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

##### (INCLUDING TRANSFER OF FUNDS)

40 USC 255.

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$4,551,946,000, and in addition, \$198,200,000, of which \$67,000,000 shall be derived by transfer from "Procurement of Weapons and Tracked Combat Vehicles, Army, 1981/1983", and \$131,200,000 shall be derived by transfer from "Procurement of Weapons and Tracked Combat Vehicles, Army, 1982/1984", to remain available for obligation until September 30, 1985.

#### PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2673, title 10, United States Code, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$2,122,394,000, to remain available for obligation until September 30, 1985.

#### OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support (including not to exceed 7 vehicles required for physical security of personnel notwithstanding price limitations applicable to passenger carrying vehicles but not to exceed \$100,000 per vehicle), and nontracked combat vehicles; the purchase of not to exceed two thousand and twenty-five passenger motor vehicles for replacement only; communications and electronic



equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$4,123,404,000, to remain available for obligation until September 30, 1985.

40 USC 255.

#### AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$10,416,107,000, of which \$267,800,000 shall be available only for purchase of C-2 aircraft under a multiyear contract, to remain available for obligation until September 30, 1985: *Provided*, That none of the funds appropriated or made available pursuant to this paragraph for the F/A-18 aircraft program may be obligated or expended until the Secretary of the Navy submits to the Committees on Appropriations of the House of Representatives and the Senate a certified plan to incorporate a United States manufactured ejection seat system in F/A-18 aircraft purchased with fiscal year 1983 and future funds: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph for F/A-18 advance procurement may be obligated or expended for any of those aircraft scheduled to replace Navy attack mission aircraft squadrons until such time as the Secretary of Defense certifies, in writing, that the A-18 version of the aircraft meets the originally established attack mission requirements, goals, and specifications.

#### WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$3,561,700,000, of which \$124,700,000 shall be available only for the purchase of Mark-46 torpedoes under a multiyear contract, to remain available for obligation until September 30, 1985, distributed as follows: For missile programs, \$2,844,200,000; for the MK-48 torpedo program,

\$119,300,000; for the MK-46 torpedo program, \$124,700,000; for the MK-60 torpedo program, \$133,200,000; for the MK-30 mobile target program, \$19,400,000; for the MK-38 minimobile target program, \$2,300,000; for the antisubmarine rocket (ASROC) program, \$10,100,000; for modification of torpedoes, \$76,500,000; for the torpedo support equipment program, \$66,900,000; for the MK-15 close in weapons system program, \$118,740,000; for the MK-75 76-millimeter gun mount program, \$10,700,000; for the MK-19 gun mount program, \$400,000; for the 20-millimeter gun mount program, \$400,000; for the modification of guns and gun mounts, \$19,700,000; for the guns and gun mounts support equipment program, \$17,460,000; and reductions of \$1,100,000 for consultants, studies and analyses, and \$1,200,000 for personnel security clearances.

40 USC 255.

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, \$1,462,600,000; for Trident submarine program advance procurement, \$81,300,000; for the CVN aircraft carrier program, \$6,559,500,000, to be available for construction only under a firm, fixed price type contract; for the SSN-688 nuclear attack submarine program, \$1,420,200,000; for the reactivation of the U.S.S. Iowa, \$300,800,000; for the aircraft carrier service life extension program, \$699,500,000; for the CG-47 AEGIS cruiser program, \$2,901,700,000; for the LSD-41 landing ship dock program, \$415,600,000; for the FFG guided missile frigate program, \$646,300,000, of which not less than \$40,000,000 shall be available only for an X-band phased array radar, and in addition, \$35,000,000 shall be derived by transfer from the "FFG guided missile frigate program" of "Shipbuilding and Conversion, Navy, 1982/1986"; for the T-AO fleet oiler ship program, \$173,000,000; for the MCM mine countermeasures ship program, \$100,000,000; for the ARS salvage ship program, \$50,000,000; for the T-AKRX fast logistics ship program, \$44,000,000; for the T-AHX hospital ship program, \$300,000,000, however, none of these funds may be obligated or expended until such time as the Department of the Navy provides a budget quality cost estimate, based upon a completed contract design which supports the original hospital ship requirements as presented to the Congress; for the LHD-1 amphibious assault ship program, \$55,000,000; for craft, outfitting, post delivery, cost growth, and escalation on prior year programs, \$907,900,000; and reductions in the amounts, as follows: \$5,900,000 for personnel security clearances; \$34,800,000 for consultant, studies and analyses; in all: \$16,076,700,000, and in addition, \$35,000,000 to be derived by transfer, to remain available for obligation until September 30, 1987: *Provided*, That of the appropriation for "Shipbuilding and Conversion, Navy," that expired for obligation on September 30, 1982, \$176,200,000 shall remain available for obligation until September 30, 1984: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be

constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

#### OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed three hundred and twenty-four passenger motor vehicles of which two hundred and ninety-two shall be for replacement only (including not to exceed 2 vehicles required for physical security of personnel notwithstanding price limitations applicable to passenger carrying vehicles but not to exceed \$100,000 per vehicle); expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$3,727,075,000, to remain available for obligation until September 30, 1985, distributed as follows: For ship support equipment, \$543,689,000; for communications and electronics equipment, \$1,481,798,000; for aviation support equipment, \$552,636,000; for ordnance support equipment, \$667,456,000; for civil engineering support equipment, \$172,837,000; for supply support equipment, \$81,224,000; and for personnel/command support equipment, \$227,435,000.

40 USC 255.

#### PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed one hundred and forty-three passenger motor vehicles for replacement only; \$2,008,083,000, of which \$6,779,000 may not be obligated or expended for procurement of the 81mm SMAW Assault Rocket Launcher and ammunition until the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that all technical and operational requirements have been demonstrated and that no other weapon is available to fulfill those requirements, to remain available for obligation until September 30, 1985.

#### AIRCRAFT PROCUREMENT, AIR FORCE

##### (INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories

40 USC 255.

*Ante*, p. 818.

therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$17,658,500,000, of which \$186,100,000 shall be available for contribution of the United States share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS) and, in addition, the Department of Defense may make a commitment to the North Atlantic Treaty Organization to assume the United States share of contingent liability in connection with the NATO E-3A Cooperative Programme; of which \$71,300,000 shall be available only for the procurement of B-707 aircraft to provide for engines and parts to reengine KC-135 aircraft; and of which \$94,800,000 and, in addition, \$50,000,000 to be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", shall be available only for procurement of commercial wide body cargo aircraft; of which \$795,000,000 shall be available only for purchase of KC-10 aircraft under a multiyear contract, and in addition, \$120,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and shall be available only for the purchase of KC-10 aircraft under a multiyear contract, notwithstanding the provisions of the language contained in the Supplemental Appropriations Act, 1982; to remain available for obligation until September 30, 1985.

#### MISSILE PROCUREMENT, AIR FORCE

##### (INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$4,941,100,000, of which \$102,000,000 shall be available to initiate multi-year contracting for the global positioning system, and in addition, \$15,000,000 shall be derived by transfer from "Missile Procurement, Air Force, 1982/1984", to remain available for obligation until September 30, 1985.

## OTHER PROCUREMENT, AIR FORCE

## (INCLUDING TRANSFER OF FUNDS)

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand three hundred and fifty-nine passenger motor vehicles of which eight hundred and eighty-five shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$5,563,777,000, and in addition, \$4,963,000, which shall be derived by transfer from "Other Procurement, Air Force, 1982/1984", to remain available for obligation until September 30, 1985.

40 USC 255.

## NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, and other procurement for the reserve components of the Armed Forces, not to exceed \$125,000,000, to remain available until September 30, 1985, distributed as follows: Army National Guard, not to exceed \$50,000,000; Air National Guard, not to exceed \$15,000,000; Army Reserve, not to exceed \$15,000,000; Naval Reserve, not to exceed \$15,000,000; Marine Corps Reserve, not to exceed \$15,000,000; Air Force Reserve, not to exceed \$15,000,000.

## PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand one hundred and thirty-nine passenger motor vehicles of which three hundred and forty-five shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$828,145,000, to remain available for obligation until September 30, 1985.

## TITLE V

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,879,683,000, to remain available for obligation until September 30, 1984.

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$5,965,751,000, of which not less than \$15,000,000 shall be available only for the phased array radar improvement program for the Mark 92 fire control system, to remain available for obligation until September 30, 1984: *Provided*, That none of the funds appropriated or made available pursuant to this paragraph for the development of the Undergraduate Flight Training System (VTX-TS) may be obligated or expended until the Secretary of the Navy submits to the Committees on Appropriations of the House of Representatives and the Senate a certified plan to incorporate a United States manufactured ejection seat system in the new Undergraduate Flight Trainer Aircraft.

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

MX missile,  
basing mode.

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$10,650,661,000, to remain available for obligation until September 30, 1984: *Provided*, That none of the funds appropriated in this Act may be obligated or expended to initiate full scale engineering development of a basing mode for the MX missile, until such basing mode is approved by both Houses of Congress in a concurrent resolution, as specified in subsection (1) hereof.

"Concurrent  
resolution."

(1) For the purposes of this section, the term "concurrent resolution" means only a resolution introduced in either House of Congress, the matter after the resolving clause of which is as follows: "That the \_\_\_\_\_ approves the obligation and expenditure of funds appropriated in Public Law \_\_\_\_\_ for MX missile procurement and full-scale engineering development of a basing mode for the MX missile," the first blank space therein being filled with the name of the resolving House, and the second blank space being filled with the public law number of this statute. It shall not be in order to introduce any such resolution prior to the receipt by the Congress of the report of the President required under subsection (7).

(2) A resolution in the Senate shall be referred to the Committee on appropriations of the Senate. A resolution in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives.

(3) If the committee to which is referred the first resolution introduced in the Senate or the House, as the case may be, expressing approval of the obligation and expenditure of funds referred to in this subsection has not reported the resolution at the end of 45 calendar days after the introduction of a resolution pursuant to subsection (1) hereof, such committee shall be automatically discharged from further consideration of the resolution and the resolution shall be placed on the calendar of the Senate, in the case of a resolution of the Senate, or the Union calendar, in the case of a resolution of the House of Representatives.

(4) When the committee has reported a resolution or been discharged under subsection (3) hereof it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged in the House and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(5)(A) Debate on the resolution shall be limited to not more than fifty hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

Debate  
limitation.

(B) Motions to postpone and motions to proceed to the consideration of other business shall be decided without debate.

(C) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Subsections (1) through (5) are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subsection (1), and they supercede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(7)(A) The President shall submit a report to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not earlier than March 1, 1983, containing:

Presidential  
report to  
congressional  
committees.

(i) a detailed technical assessment of the closely spaced basing system transmitted by the President to Congress on November 22, 1982 or such modifications thereto as the President determines to be advisable;

(ii) a detailed technical assessment of other MX basing systems that might serve as alternatives to the closely spaced basing system transmitted by the President to Congress on November 22, 1982;

(iii) a detailed technical assessment of different types of inter-continental ballistic missiles that might serve as alternatives to the MX missile; and

(iv) a comparative detailed technical assessment of alternative programs including acceleration of the Trident II program to provide target coverage equivalent to that of the MX missile system, enhancements and improvements to the Minuteman missile force, and development and deployment of a land-based missile system in deep underground basing, multiple protective shelters and closely spaced basing incorporating mobility and deception, a road mobile missile smaller than the MX and a common missile for land and sea deployment.

(v) a reaffirmation by the President of his selection of the MX missile basing plan transmitted to Congress on November 22, 1982 or a proposal for an alternative basing plan.

(B) The President shall also include in the report submitted pursuant to paragraph (A) an assessment of the military capability of each alternative system or missile; an assessment of the survivability of each such system or missile against current and projected Soviet threats; an assessment of the projected cost of each such system or missile and possible upgrades thereof; an assessment of the impact each such system or missile might have on present and future arms control negotiations; an assessment of the geographic, geological, and other qualifications a site for each such system or missile would likely require; an assessment of the environmental impact each such system or missile would likely have; and the identification of possible sites for each such system or missile.

(C) The report required under this subsection shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, relating to environmental impact statements. *Provided further*, That notwithstanding any other provision of this Act, no initial flight test of the MX missile may be conducted until after both Houses of the Congress have agreed, in accordance with the provisions of subsections (1) through (5) of the preceding proviso, to a concurrent resolution approving the obligation and expenditure of funds for full-scale engineering development of a basing mode for such missile.

42 USC 4332.

#### RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$2,153,189,000, to remain available for obligation until September 30, 1984: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions

Funds, transfer and merger.



under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

#### DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; \$55,000,000, to remain available for obligation until September 30, 1984.

### TITLE VI

#### SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; \$3,800,000, to remain available for obligation until September 30, 1984: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

### TITLE VII

#### GENERAL PROVISIONS

##### (INCLUDING TRANSFER OF FUNDS)

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Consulting services.

SEC. 702. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Publicity or propaganda.

SEC. 703. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Experts and consultants.

SEC. 704. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

Noncitizens, compensation and employment.  
31 USC 700.

SEC. 705. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement to General Services Administration for security guard services for protection of confidential files; and all necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act.

Prisoners of war.  
31 USC 649a.

SEC. 706. Any appropriation available to the Army, Navy, or Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

Land  
acquisition.

SEC. 707. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available (a) for transportation to primary and secondary schools of minor dependents of military and civilian personnel of the Department of Defense as authorized for the Navy by section 7204 of title 10, United States Code; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended; (l) the purchase of right-hand-drive vehicles not to exceed \$12,000 per vehicle; (m) for payment of unusual cost overruns incident to ship overhaul, mainte-

22 USC 2385.

nance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: *Provided*, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (n) for payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (o) for payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

Notification to Congress.

SEC. 709. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$75 in any one case; (k) for carrying out section 10 of the Act of September 23, 1950, as amended; and (l) providing, without reimbursement, not to exceed \$50,000,000 to procure secure communications systems, equipment and related items throughout the United States Government.

10 USC 858 note.

10 USC 807 note.

SEC. 710. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

Small and minority-owned business, contract opportunities.

SEC. 711. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year limitation.

SEC. 712. During the current fiscal year no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal

Metal scrap processing facilities.  
50 USC 100a.

scrap bailing or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

Funds and  
contract  
authorizations,  
exemptions.  
*Ante*, pp. 928,  
929.  
31 USC 1511,  
1512.  
Airborne alert  
expenses.

SEC. 713. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Active duty  
military  
personnel  
increases.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Report to  
Congress.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Commissary  
stores.

SEC. 714. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available to pay any costs incurred by any commissary store or other entity acting on behalf of any commissary store in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons unless all fees or moneys received for handling or processing such coupons are reimbursed to the appropriation charged with the incurred costs: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and

a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Proficiency flying.

SEC. 716. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Household goods.

SEC. 717. Vessels under the jurisdiction of the Department of Commerce, the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Vessels transfer.  
40 USC 483a.

SEC. 718. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

Obligated funds, limitation.

SEC. 719. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

Foreign real property, commodities, and services.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

31 USC 700a.

Report to Congress and OMB.

SEC. 720. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

Research and development funds

Educational  
expenses,  
limitation.

SEC. 721. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel (except with regard to such charges of educational institutions (a) for enlisted personnel in the pay grade E-5 or higher with less than 14 years' service, for which payment of 90 per centum may be made or (b) for military personnel in off-duty high school completion programs, for which payment of 100 per centum may be made), nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training: *Provided*, That the foregoing limitation shall not apply to the Program for Afloat College Education.

Loyalty  
certificate or  
oath.  
10 USC 2103  
note.

SEC. 722. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Procurement  
limitations.

SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding \$10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing in this section shall preclude the procurement of foreign produced specialty metals used in the production or manufacture of weapons or weapons systems made outside the United States, except those specialty metals which contain nickel from Cuba, or the procurement of chemical warfare protective clothing produced outside the United States, if such procurement is necessary to comply with agreements with foreign governments: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed \$4,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: *Provided further*, That the Secretary specifically determines that there is a

reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 2.2 per centum: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 724. None of the funds appropriated by this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

SEC. 725. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period appropriate duty.

Inactive duty  
training pay.

SEC. 726. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

Furnishings and  
automobiles,  
purchase.

SEC. 727. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

Uniforms.

SEC. 728. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed \$9,100,000 for the current fiscal year: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

Legislative  
liaison activities.

SEC. 729. Of the funds made available by this Act for the services of the Military Airlift Command, \$100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Civil reserve air  
fleet

SEC. 730. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed \$40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably;

(2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

Defense  
contractors  
advertising  
costs, limitation.

SEC. 731. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

Transfer of  
funds.

SEC. 732. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$1,200,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Working capital  
funds.

SEC. 733. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Federal  
Employees  
Compensation  
Fund.  
Loan  
restrictions.

SEC. 734. Not more than \$217,600,000 of the funds appropriated by this Act shall be made available for payment to the Federal Employees Compensation Fund, as established by 5 U.S.C. 8147.

SEC. 735. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under



control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

SEC. 736. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Heat plant conversion.

SEC. 737. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects: *Provided*, That this limitation shall not apply to measures intended to be beneficial to the recipient and consent is obtained from the recipient or a legal representative acting on the recipient's behalf.

Uninformed or nonvoluntary experimental subjects.

SEC. 738. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

SEC. 739. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Funds reprogramming.

SEC. 740. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence: *Provided*, That the foregoing limitation shall not apply to payments that supplement primary coverage provided by other insurance plans or programs that pay for at least 75 per centum of the covered services.

SEC. 741. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) surgery which improves physical appearance but which is not expected to significantly restore functions including, but not limited to, mammary augmentation, face lifts and sex gender changes except that breast reconstructive surgery following mastectomy and reconstructive surgery to correct serious deformities caused by congenital anomalies, accidental injuries and neoplastic surgery are not excluded; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the

Health program, limitations.

eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code: *Provided*, That any changes in availability of funds for the Program made in this Act from those in effect prior to its enactment shall be effective for care received following enactment of this Act.

10 USC 1071 *et seq.*

SEC. 742. Appropriations available to the Department of Defense for the current fiscal year shall be available to provide an individual entitled to health care under chapter 55 of title 10, United States Code, with one wig if the individual has alopecia that resulted from treatment of malignant disease: *Provided*, That the individual has not previously received a wig from the Government.

Unused accrued leave.

SEC. 743. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed by section 2107(a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

SEC. 744. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Enlisted aides, limitation.

SEC. 745. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces.

Public affairs activities.

SEC. 746. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of \$32,900,000.

22 USC 2777.

SEC. 747. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: *Provided*, That such amounts so credited shall be deposited in the Treasury as miscellaneous receipts as provided in 31 U.S.C. 484.

22 USC 2761.

Senior ROTC unit, limitation.

SEC. 748. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1982, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium

system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 749. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

SEC. 750. (a) None of the funds appropriated by this Act shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330(d) of title 10, are utilized in determining such member's eligibility for retirement under section 6330(b) of title 10: *Provided*, That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: *Provided further*, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

SEC. 751. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve, which shall remain available until September 30, 1984.

SEC. 752. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 753. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military

Enlisted  
members,  
transfer;  
retainer pay.

CIA programs,  
fiscal year  
limitation.

Salaries,  
limitation

Morale, welfare  
and recreation  
activities.

personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 754. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Abortion  
funding,  
limitation.

SEC. 755. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 756. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

SEC. 757. None of the funds appropriated by this Act shall be available for the purchase of insignia for resale unless the sales price of such insignia is adjusted to the extent necessary to recover the cost of purchase of such insignia and the estimated cost of all related expenses, including but not limited to management, storage, handling, transportation, loss, disposal of obsolete material, and management fees paid to the military exchange systems: *Provided*, That amounts derived by the adjustment covered by the foregoing limitations may be credited to the appropriations against which the charges have been made to recover the cost of purchase and related expense.

Claim payments  
to Federal  
Republic of  
Germany.

SEC. 758. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 759. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3 of the Federal Claims Collection Act of 1966, as codified at section 3711 of title 31, United States Code, and amended by Public Law 97-258, September 13, 1982, and any such contract entered into by the Department of Defense may provide that appropriate fees charged by the contractor under the contract to recover indebtedness may be payable from amounts collected by the contractor to the extent and under the conditions provided under the contract.

*Ante*, p. 877.

Procurement  
limitation.

SEC. 760. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

*Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 761. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided*, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care.

Foreign military and diplomatic personnel, medical care.

SEC. 762. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

Second career training program.

SEC. 763. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

94 Stat. 1150.  
Small arms demilitarization.

SEC. 764. During the current fiscal year, not to exceed \$125,000,000 of the funds provided in this Act for the Civilian Health and Medical Program of the Uniformed Services may be used to conduct a test program in accordance with the following guidelines: In carrying out the provisions of sections 1079 and 1086 of title 10, United States Code, the Secretary of Defense, after consulting with the Secretary of Health and Human Services, may contract with organizations that assume responsibility for the maintenance of the health of a defined population, for the purpose of experiments and demonstration projects designed to determine the relative advantages and disadvantages of providing pre-paid health benefits: *Provided*, That such projects must be designed in such a way as to determine methods of reducing the cost of health benefits provided under such sections without adversely affecting the quality of care. Except as provided otherwise, the provisions of such a contract may deviate from the cost-sharing arrangements prescribed and the types of health care authorized under sections 1079 and 1086, when the Secretary of Defense determines that such a deviation would serve the purpose of this section.

Pre-paid health benefits, demonstration projects.

SEC. 765. None of the funds in this Act shall be available to execute a multiyear contract which employs any economic order quantity procurement or which includes an unfunded contingent liability in excess of \$20,000,000 unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified in advance: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for major weapons systems except as specifically provided herein.

Major weapons systems, contract limitations.

SEC. 766. None of the funds appropriated in this or any other Act for the Department of Defense shall be available for obligation to reimburse a contractor for the cost of commercial insurance that would protect against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

Contractor insurance.  
10 USC 2399 note.

SEC. 767. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an

Travel allowances.

allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence: *Provided*, That if an enlisted member is in a travel status and is not entitled to receive a per diem in lieu of subsistence because the member is furnished meals in a Government mess, funds available to pay the basic allowance for subsistence to such a member shall not be used to pay that allowance, or pro rata portion of that allowance, for each day, or portion of a day, that such enlisted member is furnished meals in a Government mess.

Retired or  
retainer pay,  
limitations.

SEC. 768. Effective January 1, 1982, none of the funds appropriated by this Act shall be available to pay the retired pay or retainer pay of a member of the Armed Forces for any month who, on or after January 1, 1982, becomes entitled to retired or retainer pay, in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served: *Provided*, That the foregoing limitation shall not apply to any member who before January 1, 1982: (a) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve; (b) is being processed for retirement under the provisions of chapter 61 of title 10 or who is on the temporary disability retired list and thereafter retired under the provisions of sections 1210 (c) or (d) of title 10; or (c) is retired or in an inactive status and would be eligible for retired pay under the provisions of chapter 67 of title 10, but for the fact that the person is under 60 years of age.

10 USC 1201 *et*  
*seq.*

10 USC 1331 *et*  
*seq.*

Alaska and  
Hawaii,  
transportation of  
household goods.

SEC. 769. None of the funds appropriated by this Act shall be obligated under the competitive rate program of the Department of Defense for the transportation of household goods to or from Alaska and Hawaii.

SEC. 770. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

Indian labor and  
products.

SEC. 771. So far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense.

Child advocacy  
and family  
counseling  
services.

SEC. 772. Funds available to the Department of Defense during the current fiscal year shall be available to establish a program to provide child advocacy and family counseling services to deal with problems of child and spouse abuse.

POMCUS  
transportation.

SEC. 773. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets.

Transfer of  
military  
equipment or  
data to a foreign  
country.

SEC. 774. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated defense plant manufacturing large caliber cannons.

SEC. 775. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

Intelligence or  
special activities.

SEC. 776. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

Advanced  
Technology  
Bomber  
program.

SEC. 777. Section 766(c) of the Department of Defense Appropriation Act, 1980, is amended by adding the following to the end thereof: “: *Provided*, That this limitation shall not apply to individuals who are at the top step of the compensation schedule, and who were employed as teachers in the Panama Canal Zone on September 30, 1979. This modification shall become effective on August 1, 1982”.

93 Stat. 1163.

Effective date.

SEC. 778. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Coal or coke  
purchases.

SEC. 779. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for the payment for any service or supply for persons enrolled in any other insurance, medical service, or health plan to the extent that the service or supply is a benefit under the other plan, except in the case of those plans administered under title XIX of the Social Security Amendments of 1965 (79 Stat. 286).

42 USC 1396.

SEC. 780. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within States which are Signatories to the Warsaw Pact.

SEC. 781. Notwithstanding any other provision of law, \$500,000 of the funds made available by this Act for Operation and Maintenance, Army, shall be available for payment for the cost of extending utility lines to connect with the proposed West Point Jewish Chapel.

West Point  
Jewish Chapel.

SEC. 782. None of the funds appropriated by this Act may be used to appoint or compensate more than 35 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

Executive  
Schedule  
employees.

SEC. 783. None of the funds made available by this Act shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in

effect on September 30, 1982, had been increased by 8 per centum on October 1, 1982.

Military  
technicians.

SEC. 784. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, military technicians of the component concerned, below the number of positions occupied by military technicians in that component on September 30, 1982.

SEC. 785. None of the funds appropriated by this Act shall be available to pay claims for inpatient mental health services provided under the Civilian Health and Medical Program of the Uniformed Services in excess of sixty days per patient per year: *Provided*, That the foregoing limitation shall not apply to inpatient mental health services (a) provided under the Program for the Handicapped; (b) provided as residential treatment care; (c) provided as partial hospital care; (d) provided to individual patients admitted prior to January 1, 1983 for so long as they remain continuously in inpatient status for medically or psychologically necessary reasons; or (e) provided pursuant to a waiver for medical or psychological necessities, granted in accordance with the findings of current peer review, as prescribed in guidelines established and promulgated by the Director, Office of Civilian Health and Medical Program of the Uniformed Services.

SEC. 786. During the current fiscal year the Department of the Air Force will transfer from aircraft assigned to the active Air Force one C-130H aircraft in good condition to the Coast Guard without reimbursement.

Automobile  
procurement,  
requirement.

SEC. 787. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon. This section does not apply to security or special mission automobiles.

Civilian  
personnel  
ceilings.

SEC. 788. None of the funds provided in this Act may be used to impose civilian personnel ceilings on Department of Defense industrially funded activities: *Provided*, That any increase in civilian personnel of such industrial funds in excess of the number employed on September 30, 1982, shall not be counted for the purposes of any statutory or administratively imposed civilian personnel ceiling otherwise applicable during fiscal year 1983.

Transfer of  
funds.

SEC. 789. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 790. Notwithstanding the budget authority levels provided in title IV of this Act for the procurement appropriation accounts, the sum total of such budget authority levels is hereby reduced by \$386,000,000: *Provided*, That not more than \$2,100,000,000 of the remaining budget authority provided in title IV of this Act and as further reduced herein for the procurement appropriation accounts may be obligated or expended to pay independent research and



development and bid and proposal costs allocated to procurement contracts as items of indirect expense.

SEC. 791. No later than the end of the second fiscal year following the fiscal year for which appropriations for Operation and Maintenance have been made available to the Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed \$970,000,000 at the time such a transfer is made.

Transfer of funds.

SEC. 792. During the current fiscal year, for the purposes of the appropriation "Foreign Currency Fluctuations, Defense" the foreign currency exchange rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on this Act.

SEC. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

Nicaragua and Honduras.

SEC. 794. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided*, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further*, That nothing in this section shall prohibit such leasing when specifically authorized in a subsequent Act of Congress.

SEC. 795. None of the funds made available by this Act shall be available for any competition between the currently approved LAN-TIRN system and any other system under provisions of section 203 of Public Law 97-252.

*Ante*, p. 723.

SEC. 796. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 797. None of the funds made available in the Act or any subsequent Act shall be available for the purchase of the alternate or new model fighter aircraft engine that does not have a written warranty or guarantee attesting that it will perform not less than 3,000 tactical cycles. The warranty will provide that the manufacturer must perform the necessary improvements or replace any parts to achieve the required performance at no cost to the Government.

SEC. 798. Section 308(g) and 308a(c) of title 37, United States Code, are amended by striking "December 17, 1982" and inserting in lieu thereof "March 31, 1983".

*Ante*, p. 1197.

SEC. 799. Funds available under this Act may be used by the Department of Defense to enter into purchases of or commitments to purchase metals, minerals or other materials under section 303 of

the Defense Production Act of 1950, as amended, (50 U.S.C. 2093): *Provided*, That the total funds under this Act for such purchases or commitments to purchase shall not exceed \$50,000,000.

SEC. 799A. None of the funds made available by this Act may be used to support active United States military personnel stationed on shore in Europe at the end of fiscal year 1983 in excess of the planned number of such personnel stationed on shore in Europe at the end of fiscal year 1982 (315,600): *Provided*, That this limitation may be waived by the President upon a declaration to Congress of overriding national security requirements.

50 USC 98d note.

95 Stat. 357.

SEC. 799B. After the date of enactment of this Act, annual sales of silver from the National Defense Stockpile under the authority of Public Law 97-35, or any other Act, shall not exceed 10 per centum of the silver produced from existing domestic producing mines in the preceding 12 month period.

## TITLE VIII

### RELATED AGENCIES

#### INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; \$15,856,000.

#### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; \$91,300,000.

Short title.

This Act may be cited as the "Department of Defense Appropriation Act, 1983".

(d) Such amounts as may be necessary for programs, projects, and activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983 (S. 2956), at a rate for operations and to the extent and in the manner provided for in such Act as reported in the Senate on September 24, 1982, as if such Act had been enacted into law, except that the following appropriation items shall be at a rate for operations and to the extent and in the manner provided herein:

### DEPARTMENT OF COMMERCE

#### GENERAL ADMINISTRATION

##### SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed \$2,000 for official entertainment, \$31,613,000.

## BUREAU OF THE CENSUS

## PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs, provided for by law, \$97,294,000, of which \$150,000 shall be available together with \$50,000 from non-Federal sources for a new combined monthly survey of men's and women's apparel, to remain available until expended. None of the funds made available to the Bureau of the Census under this Act may be expended for prosecution of any person for the failure to return 1978 Agricultural Census forms 78-A40A or 78-A40B, or 78-A40C or 78-A40D, or form 79-A9A, or form 79-A9B, or for the preparation of similar forms for any future agricultural census.

## ECONOMIC AND STATISTICAL ANALYSIS

## SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, \$36,832,000.

## ECONOMIC DEVELOPMENT ADMINISTRATION

## ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

## (INCLUDING TRANSFER OF FUNDS)

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, \$168,500,000, and in addition, \$30,000,000 shall be available by transfer from the unobligated balances in the Economic Development Revolving Fund, notwithstanding section 203 of the Act of 1965: *Provided*, That during 1983 total commitments to guarantee loans shall not exceed \$150,000,000 of contingent liability for loan principal.

42 USC 3121  
note.

42 USC 3143.

## ECONOMIC DEVELOPMENT REVOLVING FUND

## (LIMITATION ON LOAN GUARANTEES)

During fiscal year 1983, total commitments to guarantee loans to steel companies shall not exceed \$20,000,000 of contingent liability for loan principal.

## INTERNATIONAL TRADE ADMINISTRATION

## OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of tempo-

rary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$135,200 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad; \$166,426,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. During fiscal year 1983 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$12,484,000. During fiscal year 1983, total commitments to guarantee loans shall not exceed \$28,250,000 of contingent liability for loan principal.

#### MINORITY BUSINESS DEVELOPMENT AGENCY

##### MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, or other agreements with public or private organizations, \$48,000,000, of which \$33,463,000 shall remain available until expended: *Provided*, That not to exceed \$14,537,000 shall be available for program management: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the House and Senate Appropriations Committees have approved the performance of the program, project, or activity as a central service in accordance with the policies of said Committees applicable to reprogramming of funds.

#### UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, as provided for by law, including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed \$5,000 for representation expenses abroad; \$8,100,000 of which \$500,000 shall be used only to provide direct financial assistance to the State of Hawaii (which has been declared as a major disaster area by the President) and that such funds: (1) shall be used to supplement and increase rather than replace funds that normally would be used to promote travel by foreign visitors to Hawaii; (2) shall be obligated or expended within 60 days of the date of enactment of this Act; and (3) shall not be used to pay the administrative

costs of the United States Travel and Tourism Administration or any other unit of the Federal Government.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

##### OPERATIONS, RESEARCH, AND FACILITIES

###### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; \$850,127,000, to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands Fund, and, in addition, \$22,600,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries", and \$4,140,000 from repayments of principal and interest on outstanding loans in the fund entitled "Coastal Energy Impact Fund".

33 USC 851.

##### FISHERIES LOAN FUND

For expenses necessary to carry out the provisions of section 221 of the American Fisheries Promotion Act of December 22, 1980 (Public Law 96-561), there are appropriated to the Fisheries Loan Fund, \$10,000,000 from receipts collected pursuant to that Act: *Provided*, That during fiscal year 1983 not to exceed \$300,000 of the Fisheries Loan Fund shall be available for administrative expenses.

16 USC 742c  
note.

#### SCIENCE AND TECHNICAL RESEARCH

##### SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, \$117,861,000, to remain available until expended. Of the foregoing amount, not to exceed \$47,816,000 is for Measurement, Research and Standards (including not to exceed \$1,000,000 for "Measurement Standards for the Handicapped"); not to exceed \$21,635,000 is for Engineering Measurements and Standards; not to exceed \$10,000,000 is for Computer Science and Technology; not to exceed \$13,557,000 is for Core Research Program for Innovation and Productivity; not to exceed \$5,491,000 is for the Fire Research Center; not to exceed \$6,986,000 is for Technical Competence; not to exceed \$12,376,000 is for Central Technical Support; and not to exceed \$6,286,000 may be transferred to the "Working Capital Fund". \$700,000 is provided for a metal processing program.

#### NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, \$12,667,000,

to remain available until expended, of which \$503,000 of prior year unobligated balances in the appropriation "Public telecommunications facilities planning and construction" shall be transferred to this appropriation.

#### GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

During the current fiscal year appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

42 USC 3121  
note.  
19 USC 2344.

#### DEPARTMENT OF TRANSPORTATION

##### MARITIME ADMINISTRATION

##### OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, including not to exceed \$2,500 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed \$2,500 for representation allowances; not to exceed \$2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; \$78,113,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

##### FEDERAL TRADE COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses; \$63,638,000: *Provided*, That notwithstanding any other provision of law, the provisions of sections 10, 11(b), 18, 20, and 21 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374) are hereby extended until the termination date set forth in section 102(c) of H.J. Res. 631, as enacted into law, notwithstanding subsections 10(e) and 21(i) of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

15 USC 57a note.

**SMALL BUSINESS ADMINISTRATION****SALARIES AND EXPENSES****(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed \$1,500 for official reception and representation expenses, \$202,029,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended \$16,000,000. In addition, \$25,600,000 for disaster loan making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster loan fund".

15 USC 631 note.

**BUSINESS LOAN AND INVESTMENT FUND**

For additional capital for the "Business loan and investment fund", authorized by the Small Business Act, as amended, \$128,700,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business loan and investment fund", authorized by the Small Business Act, as amended, \$185,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be made only to disabled veterans and veterans of the Vietnam era as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72, \$25,000,000.

38 USC 1841.

**DEPARTMENT OF JUSTICE****GENERAL ADMINISTRATION****SALARIES AND EXPENSES**

For expenses necessary for the administration of the Department of Justice, \$54,873,000, of which \$350,000 is to remain available until expended for the Federal justice research program.

**LEGAL ACTIVITIES****SALARIES AND EXPENSES, ANTITRUST DIVISION**

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, \$43,389,000.

**SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS**

For necessary expenses of the offices of the United States attorneys, and marshals, and bankruptcy trustees; including acquisition, lease, maintenance, and operation of aircraft, \$330,981,000.

**SUPPORT OF UNITED STATES PRISONERS**

For support of United States prisoners in non-Federal institutions, \$34,254,000: *Provided*, That not to exceed \$4,050,000 shall be available for the purpose of renovating, constructing, and equipping State and local jail facilities that confine Federal prisoners under the

Cooperative Agreement Program: *Provided further*, That amounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General: *Provided further*, That following agreement on or completion of any Federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed direct operating costs for the period of time specified in the cooperative agreement.

#### FEEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; \$35,700,000.

#### SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

42 USC 2000g. For necessary expenses of the Community Relations Service, established by Title X of the Civil Rights Act of 1964, \$5,764,000.

#### INTERAGENCY LAW ENFORCEMENT

##### ORGANIZED CRIME DRUG ENFORCEMENT

For expenses necessary for the detection, investigation, prosecution, and incarceration of individuals involved in organized criminal drug trafficking not otherwise provided for, \$127,500,000, of which \$18,000,000 is to remain available until expended for construction of new facilities and constructing, remodeling, and equipping buildings and facilities at existing detention and correctional institutions.

#### FEDERAL BUREAU OF INVESTIGATION

##### SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use (not to exceed one thousand three hundred for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; \$825,154,000, of which not to exceed \$3,000,000 for automated data processing and telecommunications and \$600,000 for undercover operations shall remain available until September 30, 1984: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than \$13,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That passenger motor vehicles for police-type use may be purchased without regard to the general purchase price limitation for the current fiscal year.



## IMMIGRATION AND NATURALIZATION SERVICE

## SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred one of which four hundred shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; and for expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-442) for the processing, care, maintenance, security, transportation, and the initial reception and placement in the United States of Cuban and Haitian entrants; \$484,431,000, of which not to exceed \$400,000 shall remain available for research until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$20,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.

8 USC 1522 note.

## DRUG ENFORCEMENT ADMINISTRATION

## SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed two hundred seventy-seven passenger motor vehicles (for replacement only) for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; \$248,162,000, of which not to exceed \$1,200,000 for research shall remain available until expended and \$1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1984.

## GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed \$35,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding section 501(e)(2)(B) of Public Law 96-422, funds appropriated to the Department of Justice in this title may be expended for assistance to Cuban-Haitian entrants as authorized under section 501(c) of said Act.

8 USC 1522 note.

SEC. 203. Authorities contained in Public Law 96-132, "Department of Justice Appropriation Authorization Act, Fiscal Year 1980", are in effect until the termination date in section 102(c) of this joint resolution as enacted into law.

93 Stat. 1040.

Post, p. 1909.

## RELATED AGENCIES

## COMMISSION ON CIVIL RIGHTS

## SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, \$11,626,000.

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## SALARIES AND EXPENSES

42 USC 2000e. For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended, 29 U.S.C. 206(d) and 621-634, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$18,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended and sections 6 and 14 of the Age Discrimination in Employment Act; \$142,771,000.

29 USC 625, 633.

## LEGAL SERVICES CORPORATION

## PAYMENT TO THE LEGAL SERVICES CORPORATION

42 USC 2996 note. For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, \$241,000,000: *Provided*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

8 USC 1101 note.

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act,

42 USC 2996f.

to be an alien described in subparagraph (C) of such section: *Provided further*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (a) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (b) a qualified nonprofit organization chartered under the laws of one of the States for the primary purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: *Provided further*, That none of the funds appropriated in this Act shall be expended by the Legal Services Corporation to participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself: *Provided further*, That none of the funds appropriated in this Act shall be available to any recipient to be used—

(A) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, or

(B) to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State, or local official, upon the formal request of such official: *Provided further*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal government or any State or local government unless (1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient; (2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and (3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interests of the clients: *Provided further*, That none of the funds

42 USC 2996c.  
42 USC 2996c  
note.

42 USC 2996d  
note.

appropriated in this Act for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to section 11 of H.R. 3480, as passed the House of Representatives on June 18, 1981: *Provided further*, That notwithstanding any regulation, guideline, or rule of the Corporation, the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts under section 1006(a) (1) and (3) so as to insure that funding for each such current grantee and contractor is maintained in 1983 at the annualized level at which each such grantee and contractor was funded in 1982, or in the same proportion which total appropriations to the Corporation in fiscal year 1983 bear to the total appropriations to the Corporation in fiscal year 1982, until action is taken by directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further*, That no member of the Board of Directors of the Legal Services Corporation shall be compensated for his services to the Corporation except for the payment of an attendance fee at meetings of the Board at a rate not to exceed the highest daily rate for grade fifteen (15) of the General Schedule and necessary travel expenses to attend Board meetings in accordance with the Standard Government Travel Regulations: *Provided further*, That no officer or employee of the Legal Services Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service.

## DEPARTMENT OF STATE

### ADMINISTRATION OF FOREIGN AFFAIRS

#### SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945); expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 240 et seq.), and section 2 of the Act of August 1, 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; \$995,000,000, of which \$25,000,000 shall remain available until September 30, 1984.

#### REOPENING CONSULATES

For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States

consulates as specified in Section 103 of the Department of State Authorization Act, Fiscal Years 1982 and 1983, \$1,000,000.

*Ante*, p. 273.

#### INTERNATIONAL ORGANIZATIONS AND CONFERENCES

##### CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, \$444,315,000, of which \$12,506,000 shall be for payment of the full 1983 assessed contributions to the Inter-American Institute for Cooperation on Agriculture: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1982, through external borrowings.

22 USC 269a  
note

##### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces, \$73,400,000: *Provided*, That section 149 of Public Law 97-276 shall be effective until the termination date of H.J. Res. 631 as enacted into law.

*Ante*, p. 1199.

##### THE ASIA FOUNDATION

For a grant to the Asia Foundation, \$4,100,000 to remain available until expended.

#### COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

##### SALARIES AND EXPENSES

For necessary expenses of the Commission on Wartime Relocation and Internment of Civilians, as authorized by Public Law 96-317, \$300,000 to be available only until June 30, 1983.

50 USC app. 1981  
note.

#### UNITED STATES INFORMATION AGENCY

##### SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$20,000); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928; and entertainment, including official receptions, within the United States, not to exceed \$10,000; \$407,830,000, of which not to exceed \$2,671,000 of the amounts allocated by the United States Informa-

5 USC app

*Ante*, p. 293.

tion Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided*, That not to exceed \$500,000 may be used for representation abroad: *Provided further*, That receipts not to exceed \$500,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of Public Law 80-402, as amended; and, for expenses of certain exchange programs of the United States Information Agency, \$84,292,000, of which \$73,965,000 shall be for the Fulbright and International Visitors Programs, \$3,206,000 shall be for the Humphrey Fellowship Program, and \$7,121,000 shall be for the Private Sector Programs.

## THE JUDICIARY

### BANKRUPTCY COURTS, SALARIES AND EXPENSES

For salaries and expenses of the judges and other officers and employees of the Bankruptcy Courts of the United States, not otherwise provided for, \$89,000,000.

(e)(1) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983, at a rate for operations and to the extent in the following Act, notwithstanding any other provision of the joint resolution; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

## AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes.

## TITLE I—DEPARTMENT OF LABOR

### EMPLOYMENT AND TRAINING ADMINISTRATION

#### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$219,921,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$62,029,000.

#### FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, as amended, of benefits and payments as authorized by title II of Public Law 95-250, as amended, of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended) \$230,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for pay-

Departments of  
Labor, Health  
and Human  
Services, and  
Education and  
Related  
Agencies  
Appropriation  
Act, 1983.  
Department of  
Labor  
Appropriation  
Act, 1983.

42 USC 3041e.

5 USC 8501 *et*  
*seq.*

92 Stat. 172.

19 USC 2291

ments for any period subsequent to September 15 of the current year: *Provided*, That amounts recovered from the States during the current fiscal year pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year. Amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

92 Stat. 179.

#### GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n; 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, chapter 2, title II, of the Trade Act of 1974, as amended, and sections 101(a)(15)(H)(ii) and 212(a)(14) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), including, upon request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, \$22,200,000, together with not to exceed \$2,454,300,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which \$627,176,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

19 USC 2271.

#### ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended, and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code and by title VI of the Tax Equity and Fiscal Responsibility Act of 1982, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1984, \$5,411,000,000.

42 USC 1105,  
1323  
26 USC 9501*Ante*, p 702.

#### LABOR-MANAGEMENT SERVICES ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, \$58,077,000.

## PENSION BENEFIT GUARANTY CORPORATION

29 USC 1381. The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program through September 30, 1983, for such Corporation.

## EMPLOYMENT STANDARDS ADMINISTRATION

## SALARIES AND EXPENSES

33 USC 939, 944. For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal and local agencies and their employees for inspection services rendered, \$169,296,000, together with \$347,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

## SPECIAL BENEFITS

5 USC 8101 *et seq.*  
33 USC 910. For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, \$339,600,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1983.

## BLACK LUNG DISABILITY TRUST FUND

26 USC 9501. For payments from the Black Lung Disability Trust Fund, \$673,544,000, of which \$639,255,000 shall be available until September 30, 1984, for payment of all benefits and interest on advances under subsection (c)(2) of section 9501 of the Internal Revenue Code of 1954, as amended, as authorized by section 9501(d) (1), (2), (4), and (7) of that Act and of which \$21,192,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses and \$13,097,000 for transfer to Departmental Management, Salaries and Expenses for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appro-



priation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

26 USC 9501.

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

## SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$205,256,000, including not to exceed \$47,625,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary to be equivalent to Federal staffing levels: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

29 USC 672.

29 USC 667.

29 USC 651 note  
29 USC 666.

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and take any action pursuant to such investigation authorized by such Act;

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section

29 USC 651 note.

29 USC 662.

29 USC 656, 667.

11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

29 USC 660.

43 USC 1301  
note  
43 USC 1801  
note

## MINE SAFETY AND HEALTH ADMINISTRATION

## SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$153,828,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed eighty-eight passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

30 USC 962.

30 USC 825.  
30 USC 814.

## BUREAU OF LABOR STATISTICS

## SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$120,143,000.

## DEPARTMENTAL MANAGEMENT

## SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including \$1,973,000 for the President's Committee on Employment of the Handicapped, \$91,864,000, together with not to exceed \$8,752,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which \$8,535,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-03.

## SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, \$67,000, to remain available until expended. This appropriation shall be available in addition to other appropriations to such agency for payments in foreign currencies.

## OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$38,133,000, together with not to exceed \$6,835,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

## GENERAL PROVISION

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

Short title.

This title may be cited as the "Department of Labor Appropriation Act, 1983".

Department of  
Health and  
Human Services  
Appropriation  
Act, 1983.

## TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

## HEALTH SERVICES ADMINISTRATION

## HEALTH SERVICES

42 USC 241, 219,  
292, 296, 300; 95  
Stat. 535.  
42 USC 300w.  
42 USC 253b.  
30 USC 937; 42  
USC 701.

For carrying out titles III, V, VII, VIII, X, and XIX of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, section 427(a) of the Federal Coal Mine Health and Safety Act, as amended, and title V of the Social Security Act, \$1,018,563,000 of which \$1,732,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease; and of which \$3,292,000, to be available until expended, shall be used to renovate the National Hansen's Disease Center: *Provided*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in

advances to this appropriation: *Provided further*, That during 1983, and within the resources and authority available under sections 338 and 338E of the Public Health Service Act, gross obligations for the principal amount of direct loans under section 338E of that Act shall not exceed \$1,000,000: *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer of the Public Health Service for any period during which the officer is providing obligated service under section 338B (or under former sections 225(e) or 752) of the Public Health Service Act except that this proviso shall not apply to any period of service covered by an agreement entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of this Act.

42 USC 254k,  
254p

42 USC 234 note,  
254m note

#### CENTERS FOR DISEASE CONTROL

##### PREVENTIVE HEALTH SERVICES

To carry out titles III, XI, and XIX of the Public Health Service Act, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, \$290,701,000, of which \$2,050,000 shall remain available until expended and shall be for construction and equipment of facilities of or used by the Centers for Disease Control: *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

42 USC 241,  
300b; 95 Stat.  
535; 42 USC  
300w.  
30 USC 801 note.  
29 USC 651 note.

#### NATIONAL INSTITUTES OF HEALTH

##### NATIONAL CANCER INSTITUTE

For carrying out, to the extent not otherwise provided, the Public Health Service Act with respect to cancer, \$983,576,000.

##### NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For expenses, not otherwise provided for, necessary to carry out the Public Health Service Act with respect to heart, lung, blood vessel, and blood diseases, \$622,745,000.

##### NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to dental diseases, \$78,860,000.

42 USC 281.

##### NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For expenses necessary to carry out title IV of the Public Health Service Act with respect to arthritis, diabetes, digestive and kidney diseases, \$412,182,000.

**NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE  
DISORDERS AND STROKE**

42 USC 281.

For expenses necessary to carry out, to the extent not otherwise provided, title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, \$295,719,000.

**NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES**

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$273,581,000.

**NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES**

For expenses, not otherwise provided for, necessary to carry out title IV of the Public Health Service Act with respect to general medical sciences, \$369,561,000.

**NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT**

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to child health and human development, \$253,655,000.

**NATIONAL EYE INSTITUTE**

For expenses necessary to carry out title IV of the Public Health Service Act, with respect to eye diseases and visual disorders, \$141,561,000.

**NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES**42 USC 241, 243,  
289f-1.

To carry out, except as otherwise provided, sections 301, 311, and 472 of the Public Health Service Act with respect to environmental health sciences, \$164,367,000.

**NATIONAL INSTITUTE ON AGING**

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to aging, \$93,996,000.

**RESEARCH RESOURCES**

To carry out, except as otherwise provided, sections 301 and 472 of the Public Health Service Act with respect to research resources and general research support grants, \$213,804,000: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

**JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN  
THE HEALTH SCIENCES**

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, \$10,147,000, of which \$1,800,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

## NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, \$46,043,000.

42 USC 241.

## OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, \$24,683,000, including purchase of not to exceed thirteen passenger motor vehicles for replacement only.

## BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided, \$17,500,000, to remain available until expended.

## ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

## ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, and alcoholism, \$777,556,000, of which \$100,000 for design, modernization and improvement of government owned or leased intramural research facilities shall remain available until expended.

42 USC 201 note.

## SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of Saint Elizabeths Hospital in the District of Columbia, \$76,505,000: *Provided*, That the Secretary of Health and Human Services may set rates for inpatient and outpatient services provided through Saint Elizabeths Hospital that in the aggregate do not exceed the estimated total cost of providing such services, and may bill and collect from (prospectively or otherwise) individuals, the District of Columbia, Executive agencies and other entities for any services so provided. Amounts so collected shall be credited to the appropriation for Saint Elizabeths Hospital for the year in which the services are provided.

24 USC 168b.

## HEALTH RESOURCES ADMINISTRATION

## HEALTH RESOURCES

For carrying out titles III, IV, VII, VIII, and XVI of the Public Health Service Act and section 1122 of the Social Security Act, \$188,531,000 of which \$1,500,000 shall remain available until expended for loan guarantees made prior to fiscal year 1981 and interest subsidies under part B of title VII, \$5,000,000 shall remain available until expended for grants for construction of teaching facilities under section 720(a)(3) of the Public Health Service Act, and \$29,000,000 shall be available until expended to enable the Secretary of Health and Human Services to enter into appropriate financial arrangements to repay in full any loan to Meharry Medical College guaranteed under section 726 (formerly section 729) of the Public Health Service Act.

42 USC 241, 281, 292, 296, 300a.

42 USC 293.

42 USC 293f.

## MEDICAL FACILITIES GUARANTEE AND LOAN FUND

42 USC 300o. For carrying out title XVI of the Public Health Service Act, \$32,000,000 shall be available without fiscal year limitation for the payment of interest subsidies. The total principal amount of loans to be guaranteed or directly made, which may be allotted among the States, pursuant to titles VI and XVI of the Public Health Service Act shall not exceed a cumulative amount of \$1,500,000,000. During fiscal year 1983, no commitments for direct loans or loan guarantees shall be made.

42 USC 291.

## ASSISTANT SECRETARY FOR HEALTH

## HEALTH SERVICES MANAGEMENT

42 USC 241,  
300e; 95 Stat.  
578; 42 USC 300z. For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XIII, and XX of the Public Health Service Act, \$96,694,000 and section 2008(g) does not apply to these programs.

## HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

42 USC 300e. Any amounts received by the Secretary as repayment of loans under title XIII of the Public Health Service Act for direct loans as authorized by said title XIII, and not to exceed \$16,500,000 may be disbursed with respect to any liability or contingent liability incurred prior to 1983. During 1983 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$24,500,000.

## RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

10 USC 1071 *et seq.* For retirement pay and medical benefits of Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year: *Provided*, That none of these funds shall be available for payment to retired personnel of the Coast Guard or the National Oceanic and Atmospheric Administration or to the survivors of such personnel or for payment of medical care for dependents of such personnel and shall be used solely for Commissioned Officers of the Public Health Service, their dependents and survivors.

## HEALTH CARE FINANCING ADMINISTRATION

## GRANTS TO STATES FOR MEDICAID

42 USC 1396. For carrying out, except as otherwise provided, title XIX of the Social Security Act, \$19,361,845,000 to remain available until expended.

For making, after June 30 of the current fiscal year, payments to States under title XIX of the Social Security Act, for the last three months of the current fiscal year, such sums as may be necessary, the obligations incurred and the expenditures made thereunder for



payments under such title to be charged to the subsequent appropriation therefor for the current or succeeding fiscal year.

In the administration of title XIX of the Social Security Act, payments to a State under such title for any quarter in the period beginning July 1 of the prior year and ending September 30 of the current year may be made with respect to a State plan approved under such title prior to or during such period. After a plan or plan amendment is approved, payment may be made with respect to it for the quarter in which it was submitted or any subsequent quarter in which it remains in effect.

42 USC 1396.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1984, \$5,105,600,000 to remain available until expended.

#### PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of P.L. 97-248, \$15,347,000,000.

42 USC 417, 429,  
1395w.  
42 USC 426a,  
1395i-1  
*Ante*, p. 559.

#### PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII and XIX of the Social Security Act, and sections 1526 and 1533(d) of the Public Health Service Act, \$92,905,000 together with not to exceed \$959,671,000, to be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That these amounts shall be in addition to funding for this purpose available under section 118 of Public Law 97-248: *Provided further*, That \$20,000,000 of the foregoing amount shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated under this paragraph shall be allotted or otherwise awarded to any Professional Standards Review Organization which the Secretary of the Department of Health and Human Services has determined should be terminated from the Professional Standards Review Program because of its inability to effectively or efficiently discharge its responsibilities under the Social Security Act.

42 USC 1301,  
1395, 1396.  
42 USC 300m-5,  
300n-2.  
42 USC 401.

*Ante*, p. 355.

42 USC 1305.

#### SOCIAL SECURITY ADMINISTRATION

##### PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under

sections 217(g), 228(g), 229(b), and 1131(b)(2) of the Social Security Act, \$855,213,000.

42 USC 417, 429,  
1320b-1.

#### SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, \$1,093,000,000: *Provided*, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation.

#### SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program under title XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$8,543,616,000 to remain available until expended: *Provided*, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation: *Provided further*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

42 USC 1381,  
1382e note; 87  
Stat. 155; 42 USC  
1383 note.

42 USC 401.

#### ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), \$6,684,207,000, to remain available until expended.

42 USC 301, 601,  
1201, 1301, 1351,  
1381.

For making, after May 31 of the current fiscal year, payments to States under titles I, IV, X, XIV, and XVI of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and expenditures to be charged to the subsequent appropriations therefor for the current fiscal year.

For making payments to States under titles I, IV, X, XIV, and XVI of the Social Security Act for the first quarter of fiscal year 1984, \$1,718,000,000, to remain available until expended.

#### CHILD SUPPORT ENFORCEMENT

For carrying out, except as otherwise provided, titles IV-D and XI of the Social Security Act, \$347,500,000 to remain available until expended.

42 USC 651,  
1301.

For making, after May 31 of the current fiscal year, payments to States under title IV-D of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and the expenditures to be charged to the subsequent appropriations therefor.

For making payments to States under title IV-D of the Social Security Act for the first quarter of fiscal year 1984, \$118,000,000 to remain available until expended.

#### LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,850,000,000.

95 Stat. 893.  
42 USC 8621.

#### REFUGEE AND ENTRANT ASSISTANCE

For expenses necessary to carry out the provisions of the Refugee Act of 1980, as amended, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, \$585,000,000: *Provided*, That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act, 94 Stat. 1810, but for the application of paragraph (2)(B) thereof.

8 USC 1522 note.

#### LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than \$3,408,451,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act may be made only when travel of more than seventy-five miles is required: *Provided further*, That \$50,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That \$47,026,000 authorized herein shall be available only for acquisition of sites, construction, renovation, and equipment of facilities and for payments for principal, interest, taxes and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Buildings Amendments of 1972, and shall remain available until expended: *Provided further*, That \$151,625,000 for automatic data processing and telecommunications activities shall remain available until expended.

42 USC 401.  
42 USC 1383  
note  
42 USC 1383.

42 USC 1381,  
1395, 421.

40 USC 356 note.  
40 USC 601 note

#### ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

##### SOCIAL SERVICES BLOCK GRANTS

For carrying out the Social Services Block Grant Act, \$2,450,000,000.

##### HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Child Abuse Prevention and Treatment Act, title VIII of the Community Services Act, the Developmental Disabilities Assistance and Bill of Rights Act of 1981, and the Head

42 USC 3001  
note, 5101 note,  
2991, 6000 note

95 Stat. 499.  
42 USC 9801  
note.  
42 USC 6061.  
95 Stat. 563.  
42 USC 6012.

Start Act of 1981, \$1,753,514,000, of which \$43,180,000 shall be for grants under part C of the Developmental Disabilities Assistance and Bill of Rights Act, and \$7,320,000 shall be for section 113 of such Act.

#### CHILD WELFARE SERVICES

For carrying out, except as otherwise provided, parts A, B, and E of title IV and sections 1110 and 1115 of the Social Security Act and title II of Public Law 95-266 (adoption opportunities), \$572,669,000.

#### WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, \$270,760,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

#### OFFICE OF COMMUNITY SERVICES

##### COMMUNITY SERVICES BLOCK GRANT

95 Stat. 511.  
42 USC 9901  
note.  
95 Stat. 518.  
42 USC 9910.

For carrying out the Community Services Block Grant Act, \$360,500,000, of which \$18,840,000 shall be for carrying out section 681(a)(2)(A), \$3,840,000 shall be for carrying out section 681(a)(2)(D), \$2,880,000 shall be for carrying out section 681(a)(2)(E), and \$5,760,000 shall be for carrying out section 681(a)(2)(F): *Provided*, That the Secretary of Health and Human Services may waive the requirements of section 138 of Public Law 97-276, relating to continuing appropriations for fiscal year 1983, for any State applying for such a waiver if—

(1) the State had, prior to October 1, 1982, submitted an application for fiscal year 1983 under the Community Services Block Grant Act, containing provisions for the use of assistance under that Act by political subdivisions; and

(2) the chief executive officer of the State certifies that, in at least 45 percent of the counties of the State, services assisted under the Community Services Block Grant Act were not available in fiscal year 1982 (other than a State for which the distribution of funds within the State for such fiscal year was contested by more than one eligible entity).

#### DEPARTMENTAL MANAGEMENT

##### GENERAL DEPARTMENTAL MANAGEMENT

For expenses not otherwise provided, which are necessary for general departmental management, including hire of six medium sedans, \$158,143,000, together with not to exceed \$8,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

42 USC 401.

## OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, \$44,921,000, together with not to exceed \$6,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

42 USC 401.

For making payments to States for medicaid State fraud control units under section 1903(a)(6) of the Social Security Act for fiscal year 1983, \$36,346,000.

42 USC 1396b.

For making, after May 31 of the current fiscal year, payments to States under section 1903(a)(6) of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, not to exceed \$5,000,000, the obligations and expenditures to be charged to the subsequent appropriations therefor.

For making payments to States for medicaid State fraud control units under section 1903(a)(6) of the Social Security Act for the first quarter of fiscal year 1984, \$10,000,000 to remain available until expended.

## OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$19,163,000, together with not to exceed \$2,350,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

## POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$14,718,000: *Provided*, That not less than \$1,500,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

42 USC 1310.

## GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 203. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses inci-

dent to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed \$9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

42 USC 209.

5 USC 5332 note.

SEC. 204. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: *Provided, however*, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327(a) of the Public Health Service Act.

42 USC 254.

SEC. 206. Funds appropriated in this title for the Social Security Administration and the Office of Child Support Enforcement shall be available for not to exceed \$5,000 for official reception and representation expenses related to income maintenance or child support enforcement activities of the Department when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed \$2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

Short title.

This title may be cited as the "Department of Health and Human Services Appropriation Act, 1983".

## TITLE III—DEPARTMENT OF EDUCATION

## COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Department of  
Education  
Appropriation  
Act, 1983.

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, \$3,160,394,000 to become available on July 1, 1983, and remain available until September 30, 1984: *Provided*, That no funds shall be used for the purposes of section 554(a)(1)(B), \$4,746,000 shall be available for purposes of section 555(d), \$255,744,000 shall be available for the purposes of section 554(a)(2)(A), \$146,520,000 shall be available for purposes of section 554(a)(2)(B), and \$32,616,000 shall be available for purposes of section 554(a)(2)(C).

95 Stat. 464.  
20 USC 3801.

For carrying out section 418 of the Higher Education Act, \$7,500,000.

## SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981; title IX, part C of the Elementary and Secondary Education Act; title IV of the Civil Rights Act of 1964; the Follow Through Act; sections 1524 and 1525 of the Education Amendments of 1978; and Public Law 92-506, \$534,500,000: *Provided*, That \$450,655,000 to carry out the State block grant program authorized under chapter 2 of the Education Consolidation and Improvement Act shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984: *Provided further*, That \$28,765,000 for the purpose of subchapter D of the Education Consolidation and Improvement Act shall become available for obligation on October 1, 1982: *Provided further*, That \$3,000,000 of the amount appropriated above shall be for the purpose of Public Law 92-506 of which \$1,500,000 shall become available on July 1, 1983, and shall remain available until September 30, 1984.

95 Stat. 469.  
20 USC 3811.  
20 USC 3341.  
42 USC 2000c.  
95 Stat. 508.  
42 USC 9801  
note  
92 Stat. 2379.  
86 Stat. 907.95 Stat. 476.  
20 USC 3851.

## BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act and part B, subpart 3 of the Vocational Education Act, as amended, \$138,057,000, of which \$3,686,000 for part B, subpart 3 of the Vocational Education Act shall become available on July 1, 1983, and shall remain available until September 30, 1984: *Provided*, That \$2,400,000 of the funds appropriated by title III of this bill shall be used for section 751 of title VII of the Elementary and Secondary Education Act.

20 USC 880b.  
20 USC 2411.

20 USC 3261.

## SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), \$455,000,000, of which \$445,000,000 shall be for entitlements under sections 2 and 3 and \$10,000,000 shall be for payments under section 7 of said Act: *Provided*, That payment to any local educational agency with respect to entitlements under section 3(a) shall be 90 per centum of the amount of such payment for the fiscal year 1981 unless such agency is determined eligible for payment under section 3(d)(2)(B), except that payment to any local educational agency with respect to entitlements under section 3(a) shall be 95 per centum of the amount of such payment for fiscal year

20 USC 236 *et*  
*seq.*  
20 USC 237, 238  
20 USC 241-1

- 20 USC 238. 1981 for any such agency in which the number of children determined under such section 3(a) is at least 20 per centum of the total number of children who are in average daily attendance at the schools of such agency; and payment to any local educational agency with respect to entitlements under section 3(b) shall not exceed the amount of such payment for the fiscal year 1982 unless such agency is determined eligible for payment under section 3(d)(2)(B): *Provided further*, That notwithstanding the payment provisions stated herein, the Secretary is authorized to determine and make payment of a fair and equitable amount with regard to an otherwise eligible local educational agency which was not eligible in the fiscal years 1981 or 1982: *Provided further*, That the aggregate amount for payments of entitlements calculated under section 3(d)(2)(B) shall not exceed \$15,000,000: *Provided further*, That no payments shall be made under section 3 of said Act to any local educational agency whose payment under that section fails to exceed \$5,000: *Provided further*, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of \$10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred: *Provided further*, That in addition to the \$10,000,000 appropriated in the foregoing, there is hereby appropriated \$5,000,000 for section 2 for the purpose of paying entitlements, including the payment of entitlements under this section for the Douglas School District in the State of South Dakota impacted as a result of Ellsworth Air Force Base which shall be made at 100 per centum of the amount to which such school district is entitled under section 2.
- 20 USC 241-1. For carrying out the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), \$20,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act: *Provided*, That with the exception of up to \$8,500,000 for section 10 and up to \$8,500,000 for section 14 (a) and (b), none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under sections 5 and 14(c).
- 20 USC 631 *et seq.*
- 20 USC 640, 644.

#### EDUCATION FOR THE HANDICAPPED

- 20 USC 1401 note. For carrying out the Education of the Handicapped Act, \$1,110,252,000, of which \$970,000,000 for section 611 and \$25,000,000 for section 619 shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984.
- 20 USC 1411, 1419.

#### REHABILITATION SERVICES AND HANDICAPPED RESEARCH

- 29 USC 701 note. For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, as amended, and the International Health Research Act of 1960, \$1,036,727,000, of which \$939,753,158 shall be for allotments under section 100(b)(1), \$4,146,842 shall be for activities under section 110(b)(3), and \$650,000 shall be made available to the Navajo Tribal Council for activities under section 130: *Provided*, That of the amount appropriated for centers for independent living under part B of title VII of the Rehabilitation Act of 1973, such amounts as are necessary shall be available for fiscal year 1983 to fund all such centers which received assistance under such part in
- 22 USC 2101 note.
- 29 USC 720.
- 29 USC 730.
- 29 USC 750.
- 29 USC 796e.



fiscal year 1981 at the level of assistance made to each such center in fiscal year 1981: *Provided further*, That of the amount appropriated and available for projects with industry under section 621 of the Rehabilitation Act of 1973, such amounts as are necessary shall be available for fiscal year 1983 to fund all such projects which received assistance under such part in fiscal year 1981 at the level of assistance made to each such project in fiscal year 1981.

29 USC 795g.

#### VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Vocational Education Act, and the Adult Education Act, \$816,500,000 which shall become available for obligation on July 1, 1983, and shall remain available until September 30, 1984, except that \$7,678,000 for part B, subpart 2 of the Vocational Education Act shall become available for obligation on July 1, 1983, and shall remain available until expended: *Provided*, That \$6,500,000 for State advisory councils under section 105 of the Vocational Education Act shall be used to provide to each State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Northern Mariana Islands an amount equal to the amount it received in the previous fiscal year: *Provided further*, That not to exceed \$99,590,000 shall be for carrying out part A, subpart 3, of the Vocational Education Act: *Provided further*, That \$2,243,100 shall be made available for the National Occupational Information Coordinating Committee.

20 USC 2301  
note, 1201 note.

20 USC 2401.

20 USC 2305.

20 USC 2350.

#### STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, \$3,567,800,000 which shall remain available until September 30, 1984: *Provided*, That amounts appropriated for Pell Grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for Pell Grants published by the Secretary of Education for the 1982-1983 academic year: *Provided further*, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for Pell Grants which exceed the amounts required to meet the payments schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated for the next fiscal year: *Provided further*, That the maximum grant a student may receive in the 1983-1984 academic year shall be \$1,800 notwithstanding section 411(a)(2)(A)(i)(III) of the Higher Education Act: *Provided further*, That notwithstanding any other provision of law, such sums as may be necessary not to exceed \$30,000,000 of the amount appropriated by Public Law 97-257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97-92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum:

20 USC 1070a,  
1070b, 1070c; 42  
USC note prec.  
2751; 20 USC  
note prec. 1088.

20 USC 1070a.

20 USC 1070a  
note.

20 USC 1070a  
note  
*Ante*, p. 818.

95 Stat. 1197.

20 USC 1070c.

*Provided further*, That notwithstanding any other provision of this Act, any other Act, or section 415B of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 415A of the Higher Education Act of 1965 for the fiscal year 1983 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in the fiscal year 1982 bears to the total amount appropriated pursuant to section 415A for that fiscal year.

#### GUARANTEED STUDENT LOANS

20 USC 1071.

For necessary expenses under title IV, part B of the Higher Education Act, \$3,100,500,000, to remain available until expended.

#### HIGHER AND CONTINUING EDUCATION

20 USC 1051,  
1121, 1131, 1133,  
1134d, 1134n,  
1134r-2, 1135,  
1070e-1,  
1132d-3.  
22 USC 2452.  
94 Stat. 1496,  
1502.  
95 Stat. 450.  
20 USC 3489.  
95 Stat. 444.  
94 Stat. 3170.

For carrying out titles III; VI, parts A and B; VIII; IX, parts B, D and E; title X; and sections 417, 420, and 734 of the Higher Education Act; section 406A(2) of the General Education Provisions Act (20 U.S.C. 1221e-1b(2)); section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; title XIII, part H, subparts 1 and 2 of the Education Amendments of 1980; H.R. 3598 as passed the House on November 4, 1981; and title V, section 528(5) of the Omnibus Budget Reconciliation Act of 1981, without regard to section 512(b) of the Omnibus Budget Reconciliation Act of 1981, \$385,525,000: *Provided*, That funds made available in Public Law 96-536, section 110 for the Wayne Morse Chair of Law and Politics shall remain available for obligation until September 30, 1985: *Provided further*, That \$2,000,000 shall be available until expended for the Carl Albert Congressional Research and Studies Center: *Provided further*, That \$25,000,000 made available for interest subsidy grants under section 734 of the Higher Education Act shall remain available until expended: *Provided further*, That sections 922(b)(2) and 922(e)(2) and the funding limitations set forth in section 922(e) of the Higher Education Act shall not apply to funds in this Act.

20 USC 1132d-3.

20 USC 1134e.

#### HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

20 USC 1132d-2

For the payment of principal and interest on participation certificates as authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, issued by the Government National Mortgage Association as trustee on the behalf of the Department of Education pursuant to the Federal National Mortgage Association Act (12 U.S.C. 1717(c)), and for the payment of interest expenses to the Department of the Treasury as required by title VII, section 733(b)(2) of the Higher Education Act, \$20,143,000 to remain available until expended. The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year. During fiscal year 1983, no new commitments for loans may be made from this account.

## COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1983 shall not exceed the total of loan repayments and other income available during such period, less operating costs. Payments of insufficiencies in fiscal year 1983 as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717) shall be made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749) using loan repayments and other income available during fiscal year 1983. During fiscal year 1983 and within the resources and authority available, gross commitments for the principal amount of direct loans shall be \$40,000,000.

## EDUCATIONAL RESEARCH AND STATISTICS

For necessary expenses for education statistics activities and for research and development, to carry out sections 405 and 406 of the General Education Provisions Act, \$64,203,000.

20 USC 1221e,  
1221e-1.

EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS  
(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be in excess of the normal requirements of the United States, for necessary expenses of the Department of Education, as authorized by law, \$516,000, to remain available until expended.

## LIBRARIES

For carrying out, to the extent not otherwise provided, titles I and III of the Library Services and Construction Act (20 U.S.C., ch. 16); title II, part A, part B except section 224, and part C of the Higher Education Act, notwithstanding the provisions of section 221, \$80,320,000.

20 USC 352,  
355e, 351 *et seq.*  
20 USC 1022,  
1031, 1034, 1041,  
1031.

## SPECIAL INSTITUTIONS

## AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-105), \$5,000,000.

## NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681 *et seq.*), \$26,300,000.

## GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), \$52,000,000.

## HOWARD UNIVERSITY

For partial support of Howard University, \$145,200,000. If requested by the university, construction financed by prior year appropriations to this account shall be supervised by the General Services Administration.

## OFFICE FOR CIVIL RIGHTS

## SALARIES AND EXPENSES

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$44,868,000.

## DEPARTMENTAL MANAGEMENT

## SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three medium sedans, \$222,000,000. During the current fiscal year up to \$10,500,000 from collections of federally insured defaulted loans may be transferred to this account for payment of related collection activities.

## OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$12,840,000.

20 USC 3422.

## GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

SEC. 303. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 304. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or

42 USC 2000c.

from a particular school over the protest of his or her parents or parent.

SEC. 305. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

School busing.

42 USC 2000c.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 306. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 307. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Voluntary  
school prayer.

This title may be cited as the "Department of Education Appropriation Act, 1983".

Short title.

## TITLE IV—RELATED AGENCIES

### ACTION

#### OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, \$129,321,000, of which \$11,831,000 shall be available to carry out title I, part A of said Act: *Provided*, That none of the funds appropriated under this heading may be used to close State field offices of the Action agency or to reduce the number of personnel engaged in operating State field offices of the Action agency.

42 USC 4951  
note.  
42 USC 4951.

### CORPORATION FOR PUBLIC BROADCASTING

#### PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Public Broadcasting Amendments Act of 1981, an amount which shall be available within limitations specified by said

95 Stat 725.  
47 USC 609 note.

Act, for the fiscal year 1985, \$130,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion or sex.

#### FEDERAL MEDIATION AND CONCILIATION SERVICE

##### SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. Chapter 71), \$21,321,000.

88 Stat. 395.

29 USC 141 note.

5 USC 7101 *et seq.*

#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

##### SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, \$3,686,000.

#### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

##### SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), \$674,000.

20 USC 1501 note.

#### NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

For necessary expenses to carry out section 491 of the Higher Education Act, \$840,000.

20 USC 1098.

#### NATIONAL LABOR RELATIONS BOARD

##### SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$124,045,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or

used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

#### NATIONAL MEDIATION BOARD

##### SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$5,468,000.

#### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

##### SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, \$6,316,000.

#### RAILROAD RETIREMENT BOARD

##### DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$430,000,000, which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year. 45 USC 231n.

##### LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, \$46,361,000 to be derived from the railroad retirement accounts: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,162 full-time-equivalent employees: *Provided further*, That \$500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provisions in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228 a-r). For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than \$16,644,000 shall be apportioned for fiscal year 1983 pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665) from moneys credited to the railroad unemployment insurance administration fund: *Provided*, That such portion of the foregoing

amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 416 full-time-equivalent employees.

#### MILWAUKEE RAILROAD RESTRUCTURING, ADMINISTRATION

45 USC 913. For administrative expenses authorized by section 14(c) of the Milwaukee Railroad Restructuring Act, \$250,000.

#### SOLDIERS' AND AIRMEN'S HOME

##### OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, \$26,718,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

#### TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Experts and consultants.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

5 USC 5332 note.

Uniforms or allowances.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Meetings.

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

Funds to campus disrupters, prohibition.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent



the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Education, and Health and Human Services are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

Transfer of funds.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year limitations.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Education, and Health and Human Services are each authorized to make available not to exceed \$7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Human participation projects.

SEC. 512. Section 104 of Public Law 97-276 is deemed to charge no amount appropriated by section 132, 134, 137, 141, or 142 of that joint resolution to any appropriation, fund, or authorization contained in this or any other measure whenever enacted.

*Ante*, p. 1190.  
*Ante*, pp. 1197, 1198.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983".

Short title.

(2) Such amounts as may be necessary for carrying out the following activities, not otherwise provided for, at the current rate: health planning activities authorized by the Public Health Service Act: *Provided*, That, notwithstanding section 102 of this

42 USC 201 note.

*Post*, p. 1909.

42 USC 3001-1,  
3001-4, 300m.

*Ante*, p. 1357.

*Ante*, p. 1354.  
19 USC 2296,  
2297, 2298.

26 USC 51.

92 Stat. 181.

joint resolution, no penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515 or 1521 of the Public Health Service Act during fiscal year 1983;

activities under the Comprehensive Employment and Training Act as authorized by section 181 of the Job Training Partnership Act, Public Law 97-300; sections 236, 237, and 238 of the Trade Act of 1974, as amended; section 51 of the Internal Revenue Code of 1954, as amended; and sections 210, 211, and 212 of Public Law 95-250; and

activities under the Department of Labor, Employment and Training Administration, for "Program Administration".

(3) Notwithstanding any other provision of this joint resolution, neither the restriction contained in the proviso under the heading "OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION: SALARIES AND EXPENSES" in Public Law 97-257 (96 Stat. 844) nor any similar or comparable provision of any other law shall apply or have any continuing effect during fiscal year 1983 or any succeeding fiscal year.

(f) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: *Provided*, That no funds under this heading shall be used for further study or construction or in any fashion for a federally funded waterway which extends the Tennessee Tombigbee project south from the city of Demopolis, Alabama: *Provided further*, That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: *Provided further*, That of such amount, \$1,000,000 shall be available only to provide for a wider navigation opening at the Franklin Ferry Bridge, Jefferson County, Alabama: *Provided further*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: *Provided further*, That Department of Energy, Atomic Energy Defense Activities, shall be funded at not to exceed an annual rate for new obligational authority of \$5,700,000,000, of which not more than \$4,372,000,000 shall be available for operating expenses and not more than \$1,328,000,000 shall be available for plant and capital equipment, except that no funds shall be available for Project 82-D-109: *Provided further*, That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982:

(g) Notwithstanding section 102(c) of this joint resolution, the following amounts are provided for fiscal year 1983:

*Post*, p. 1909

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## HOUSING PROGRAMS

## ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by \$519,711,198: *Provided*, That the budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropriation Acts by \$8,651,475,689: *Provided further*, That of the budget authority provided herein, \$361,760,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families, \$1,834,000,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and \$2,500,000,000 shall be for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437l): *Provided further*, That all budget authority recaptured and becoming available for obligation in fiscal year 1983 shall only be made available for annual contributions contracts under the section 8 moderate rehabilitation program and the section 8 existing housing program (42 U.S.C. 1437f): *Provided further*, That any balances of authorities made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1983, shall be added to and merged with the authority approved herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1983: *Provided further*, That the \$89,321,727 of budget authority deferred and made available in accordance with the provisos under the heading "Annual Contributions for Assisted Housing" in Chapter VII of the Supplemental Appropriations Act, 1982 (Public Law 97-257), shall be made available for the modernization of vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further*, That none of the merged amounts available for obligation in 1983 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That with respect to newly constructed and substantially rehabilitated projects under section 8 of the United States Housing Act of 1937, as amended, during 1983, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: *Provided further*, That no funds provided in this joint resolution or any other Act shall be used to administer or implement any regulation, policy direction or handbook instruction concerning maximum total development costs applicable to the public housing, Indian housing or low-rent homeownership programs not in effect before September 7, 1982: *Provided further*, That the proceeding proviso may be waived by the Committees on Appropriations after the Department of Housing and Urban Development

*Ante*, p. 835.

presents to the Appropriations Committees, an analysis of the impact of the maximum total development cost regulation, published September 8, 1982 in the Federal Register, amending 24 CFR 804, 805 and 841, upon the ability of local public housing authorities to develop the units in the pipeline in a timely fashion.

#### HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

*Ante*, p. 1160.

For an additional amount for direct loan obligations for "Housing for the Elderly or Handicapped Fund" under section 202 of the Housing Act of 1959, as amended, (12 U.S.C. 1701q), \$181,200,000: *Provided*, That title I of the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1983 (Public Law 97-272) is amended by striking out the period at the end of the paragraph under the heading "Housing for the Elderly or Handicapped Fund", and inserting in lieu thereof the following: *Provided further*, That notwithstanding section 202(a)(3) of such Act, loans made in fiscal year 1983 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program."

#### RENT SUPPLEMENT

##### (RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1983 by not more than \$105,160,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

#### FEDERAL HOUSING ADMINISTRATION FUND

12 USC 1713,  
1715e, 1715k,  
1715l, 1715v,  
1715y.  
12 USC 1720.

For an additional amount for commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, \$6,100,000,000: *Provided*, That section 207(c)(3), the second proviso of section 213(b)(2), section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by inserting "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 305 of this Act by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

#### GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

##### SPECIAL ASSISTANCE FUNCTIONS FUND

During 1983, within the resources and authority available, gross obligations for the principal amounts of direct loans made pursuant to section 305 of the National Housing Act, as amended (12 U.S.C. 1720), shall not exceed \$500,000,000, which may be financed with collections received in 1983, and additional obligations are authorized in such amounts as are necessary for increases to prior year commitments.

(h) Notwithstanding any other provision of this joint resolution such amounts as may be necessary for programs, projects, or activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1983 (H.R. 7356), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-978), passed by the House of Representatives on December 18, 1982, and by the Senate on December 19, 1982, as if such Act had been enacted into law: *Provided*, That notwithstanding any other provision of this joint resolution or any other Act including the Department of the Interior and Related Agencies Appropriation Act, 1983, \$2,000,000 is appropriated for "Fossil energy research and development", Department of Energy, to remain available until expended.

*Post*, p. 1966.

(i) Notwithstanding any other provision of this joint resolution such sums as may be necessary for programs, projects, or activities provided for in the Department of Agriculture, Rural Development and Related Agencies Appropriation Act, 1983 (H.R. 7072), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-957), filed in the House of Representatives on December 10, 1982, as if such Act had been enacted into law.

*Ante*, p. 1787.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 17, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1983, whichever first occurs.

Funding  
availability.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 106. No provision in any appropriation Act for the fiscal year 1983 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

*Supra*.

5 USC 5343 note.

SEC. 107. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1983, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1982, until the next applicable wage survey adjustment becomes effective, the rate which

was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1982; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1983, a rate which exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1983.

5 USC 5343 note.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of enactment of this Act.

(c) For the purposes of subsection (a) of this section, the rate payable to any employee who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1982, shall be determined under regulations prescribed by the President.

(d) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(e) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

*Ante*, p. 1191.

(f) Notwithstanding the limitations imposed on prevailing rate pay pursuant to subsection (a) of this section and section 109 of Public Law 97-276, an Act to make continuing appropriations for the fiscal year 1983, such limitations shall not apply to wage adjustments for prevailing rate supervisors provided by the supervisory pay plan published in the Federal Register on May 21, 1982. (47FR22100).

Space and  
services rental.

40 USC 490.

SEC. 108. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: *Provided*, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 109. Notwithstanding any other provision of this joint resolution, the following administrative provision shall apply to the Veterans Administration: The \$35,000,000 limitation on Veterans Administration medical automatic data processing services carried in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), is hereby repealed: *Provided*, That none of the funds which are made available by this or any other Act shall be used to further develop, implement, install, administer, operate, or maintain the computerized medical information support system (COMISS) as described in the VA ADP and Telecommunications Plan, fiscal years 1984-1987, dated September 1982, except to administer, operate and maintain the currently operational outpatient automated pharmacy, prescription, labeling, and editing system (APPLES) at locations where such system is currently operating: *Provided further*, That fifty-two of the full-time equivalent employment (FTEE) ceiling assigned to the Office of Data Management and Telecommunications for the development of COMISS shall immediately be transferred to the Department of Medicine and Surgery to support the decentralized hospital computer program: *Provided further*, That the FTEE ceiling for the Office of Data Management and Telecommunications in fiscal year 1983 shall not exceed one thousand nine hundred and thirty-four, including not to exceed one FTEE located in the Central Office to support APPLES: *Provided further*, That \$1,000,000 of the amount appropriated to the "General operating expenses" account in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), is hereby transferred to the "Medical care" account to support the transferred FTEE.

*Ante*, p. 1160.

SEC. 110. Notwithstanding any other provision of this joint resolution, moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than \$120,000,000 in addition to amounts previously appropriated in prior years, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.

50 USC 98d  
50 USC 98e.

SEC. 111A. Notwithstanding section 102(c) of this joint resolution, subsection (c) of section 4 of the Commission on Wartime Relocation and Internment of Civilians Act (50 U.S.C. App. 1981 note) is amended by striking out "shall submit" and all that follows through the end of the subsection and inserting in lieu thereof "may make available to the public such interim findings and other information as it deems appropriate and shall submit a written report of its

*Ante*, p. 1909.

findings and recommendations to Congress not later than June 30, 1983.”

Six-day and  
rural mail  
deliveries.  
39 USC 403 note.

SEC. 111B. Notwithstanding any other provision of this joint resolution the Postal Service shall continue six-day delivery of mail and rural delivery of mail shall continue at the 1982 level.

*Ante*, p. 1909.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 102(c), there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be maintained at Step 14.

42 USC 603 note.  
42 USC 601.

SEC. 113. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to any of the fiscal years 1977 through 1983 shall be made prior to the date on which this resolution expires on account of the provisions of section 403(h) of such Act.

42 USC 603.

SEC. 114. Notwithstanding any other provision of this joint resolution or any other provision of law, none of the funds made available under this resolution or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required “at cost” to a “market rate” or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

16 USC 838.

SEC. 115. Notwithstanding any other provision of this joint resolution, except section 102, expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for construction of Boundary Integration and Colville Valley Support; official reception and representation expenses in an amount not to exceed \$2,500; and for the purposes of providing funds for conservation and renewable resource loans and grants as specified in the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501), \$1,250,000,000 borrowing authority is made available to remain outstanding at any given time: *Provided*, That the obligation of such additional borrowing authority not exceed \$276,000,000 in fiscal year 1983.

16 USC 839.

SEC. 116. Notwithstanding any other provision of this joint resolution, there is appropriated to the Department of the Treasury \$248,000,000 for “Salaries and expenses”, Bureau of Government Financial Operations; \$170,510,000 for “Salaries and expenses”, Internal Revenue Service; \$1,009,409,000 for “Examinations and Appeals”, Internal Revenue Service; \$1,000,778,000 for “Taxpayer Service and Returns Processing”, Internal Revenue Service; \$553,700,000 for “Salaries and expenses”, United States Customs Service: *Provided*, That none of these funds shall be available to close or relocate Customs offices in Duluth, Minnesota/Superior, Wisconsin; Milwaukee, Wisconsin; Bridgeport, Connecticut; Hartford, Connecticut; Portland, Oregon; Miami, Florida; St. Albans, Vermont; or Anchorage, Alaska, or to consolidate or reduce personnel, programs or functions of these offices; and \$235,000,000 for “Salaries and expenses” (including the hire of 200 new special agents), United States Secret Service.

26 USC 511, 512,  
513.

SEC. 117. None of the funds contained in this resolution shall be available for the implementation and enforcement of any Internal Revenue ruling relating to the application of sections 511, 512, and 513 of the Internal Revenue Code to revenues generated as a result of North Dakota Century Code chapter 53-06.



SEC. 118. Notwithstanding any other provision of this joint resolution, \$770,000,000 shall be available for rental of space within the Federal Buildings Fund of the General Services Administration.

SEC. 119. Notwithstanding any other provision of this joint resolution, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1982 levels or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1982 levels, including, but not limited to toll free telephone tax law assistance and Internal Revenue Service walk-in assistance available at Internal Revenue Service field offices.

SEC. 120. Notwithstanding any other provision of this joint resolution, none of the funds made available to the General Services Administration under this Act shall be obligated or expended after date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position described in section 3310 of title 5, United States Code.

SEC. 121. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-item projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1983, as passed by the House or as reported to the Senate.

SEC. 122. Section 2 of Reorganization Plan Numbered 3 of 1979 (93 Stat. 1382, 5 U.S.C. Appendix) is amended by adding thereto a new subsection (e) as follows:

“(e) There shall be in the Department of Commerce a Director General of the United States and Foreign Commercial Services who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed by law for level IV of the Executive Schedule.”

SEC. 123. Section 5314 of title V, United States Code is amended by adding the following at the end thereof: “Executive Director Property Review Board”.

SEC. 124. Section 305(b) of Public Law 97-253 is amended by inserting before the period the following: “, except for those individuals who serve three days or less in the month of retirement”.

SEC. 125. No funds appropriated by this joint resolution or any other Act may be used to enter into a restructured contract of the National Aeronautics and Space Administration for tracking and data relay satellite services if the estimated impact on total program cost of such restructured contract exceeds \$216,000,000, or if the estimated total cost of the restructured tracking and data relay satellite services program exceeds \$2,704,000,000, unless the Committees on Appropriations, having been apprised of higher estimates by the Administrator of the National Aeronautics and Space Administration, approve entering into such contract: *Provided*, That if at any time the Administrator of the National Aeronautics and Space Administration estimates that the total cost of the tracking and data relay satellite services program will exceed \$2,704,000,000, or that the impact on total cost of restructuring the contract for such services will exceed \$216,000,000, he shall promptly notify the Committees on Appropriations and shall take no actions that would

19 USC 2171  
note.

Director General  
of United States  
and Foreign  
Commercial  
Services,  
Presidential  
appointment.  
5 USC 5315.

*Ante*, p. 795.  
5 USC 8345 note.

cause such costs to increase without the approval of the Committees on Appropriations.

SEC. 126. Of the funds made available to the Department of Defense by this joint resolution, \$200,000 shall be transferred to the Department of Education which shall grant such sum to the Board of Education of the Highland Falls-Fort Montgomery, New York central school district. The funds transferred by this section shall be in addition to any assistance to which the Board may be entitled under subchapter 1, chapter 13 of title 20 United States Code.

20 USC 236.  
2 USC 88b-2,  
88b-3, 88b-4.

SEC. 127. The provisions of H. Res. 611, 97th Congress, approved November 30, 1982, relating to the House of Representatives Page Board, shall be the permanent law with respect thereto.

SEC. 128. No funds provided under this joint resolution shall be used to deny or reduce supplemental security income or aid to families with dependent children benefits because of home energy assistance provided by a private nonprofit organization, or any entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity.

5 USC 5318 note.  
*Ante*, p. 1186.

SEC. 129. (a) Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting "September 30, 1983,".

Executive  
Schedule, pay  
adjustments.

(b) In lieu of payment of salary increases of up to 27.2 percent as authorized by law for senior executive, judicial, and legislative positions (including Members of Congress), it is the purpose of this section to limit such increases to 15 percent. Notwithstanding the provisions of section 306 of S. 2939 made applicable by subsection (a) of this section, nothing in subsection (a) shall (or be construed to) require that the rate of salary or pay payable to any individual for or on account of services performed after December 17, 1982, be limited to an amount less than the rate (or maximum rate, if higher) of salary or pay payable as of such date for the position involved increased by 15 percent and rounded in accordance with section 5318 of title 5, United States Code.

(c) Subsection (b) shall not apply to Senators.

(d) For the purposes of any rule, regulation, or order having the force and effect of law and limiting the annual rates of compensation of officers and employees of the Senate by reference to the annual rate of pay of Senators, the annual rate of pay of Senators shall be deemed to be the annual rate of pay that would be payable to Senators without regard to subsection (c) of this section.

SEC. 130. Notwithstanding any other provision of this joint resolution, there is appropriated to the "Federal Labor Relations Authority", \$15,500,000.

SEC. 131. Notwithstanding any other provision of this joint resolution, the Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this or any other Act, for the production of any commodity for export, if it is in surplus on world

markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 132. Notwithstanding any other provision of this joint resolution, none of the funds appropriated or made available (other than funds for "Operating expenses of the Agency for International Development") pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to finance the operating expenses of the Agency for International Development, except that funds contained in deferral numbered D83-1 shall be used for operating expenses of the Agency for International Development.

22 USC 2151  
note.

SEC. 133. Notwithstanding any other provision of this joint resolution, none of the funds appropriated under section 101(b) of this joint resolution may be available for any country during any 3-month period beginning on or after October 1, 1982, immediately following the certification of the President to the Congress that such country is not taking adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully.

SEC. 134. Notwithstanding any other provision of this joint resolution, of the new obligational authority appropriated under section 101(b) to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, not less than 30 percent shall be available for loans for the fiscal year 1983 (funds for such loans shall remain available for obligation until September 30, 1984): *Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than \$795 but less than \$1,285 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose annual per capita gross national product is greater than or equal to \$1,285 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

22 USC  
2151a-2151d.

SEC. 135. Payments required by section 4 of Public Law 97-346 with respect to the Vice President, Senators, and officers and employees of the Senate shall be paid from the contingent fund of the Senate out of the account in such fund for "Miscellaneous Items".

*Ante*, p. 1650.

SEC. 136. Any commuter authority operating commuter service transferred from the Consolidated Rail Corporation under part 2 of the Northeast Rail Service Act of 1981 shall be subject to applicable laws with respect to such service.

45 USC 591 note.

SEC. 137. Conrail employees who are deprived of employment by assumption or discontinuance of intercity passenger service by Amtrak shall hereafter be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.

95 Stat. 647.  
45 USC 744a.

45 USC 1113  
note.

SEC. 138. Notwithstanding any other provision of this joint resolution, the provisions of section 616 of H.R. 7158, the Treasury, Postal Service, and General Government Appropriation Act, 1983,

and section 614 of S. 2916, the Treasury, Postal Service, and General Government Appropriation Bill 1983, shall not apply to funds appropriated or otherwise made available by this joint resolution.

SEC. 139. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy Honolulu, Hawaii.

91 Stat. 225.

33 USC 701r-1,  
709a.

*Ante*, p. 1909.

*Ante*, p. 1198.

SEC. 140. The authorization for the water project on Bradley Lake, near Cook Inlet, Alaska described in the plans recommended in the report of the Chief of Engineers contained in House Document Numbered 455, 87th Congress, which plan was adopted and authorized by the Flood Control Act of 1962 (76 Stat. 1180, 1193) is hereby terminated: *Provided*, That for clarification, funds in the amount of \$31,050,000 authorized to be appropriated in fiscal year 1978 for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley Project under Public Law 95-46 shall remain available until expended: *Provided further*, That \$4,000,000 shall be made available for the Yatesville Lake construction project: *Provided further*, That funds available or hereafter made available for the project for flood protection on the Sacramento River, California, authorized by the Flood Control Act of 1960, may be used for construction of bank erosion control works along the banks of the Sacramento River for Chico Landing to the upstream ends of the project levees.

SEC. 141. Notwithstanding any other provision of this joint resolution, including section 102, there are appropriated \$3,500,000 for carrying out the Runaway and Homeless Youth Act, which is in addition to amounts otherwise available under section 137 of Public Law 97-276 and under this joint resolution for carrying out such Act.

SEC. 142. (a) For payment to the Alaska Railroad Revolving Fund for capital improvements, replacements, operations, and maintenance, \$7,600,000, to remain available until expended.

(b) For an additional amount to execute contracts for the Dodge Island Bridge Project, Miami, Florida, in accordance with the provisions of Title 23, United States Code, Section 144, \$23,200,000 to be derived from the Highway Trust Fund, and to remain available until expended: *Provided*, That, notwithstanding any other provision of law, obligations incurred under this section shall not be subject to any limitation on obligations for federal-aid highways.

SEC. 143. Notwithstanding any other provision of this joint resolution, until the United States Court of Appeals for the District of Columbia renders a final decision in Case No. 82-2389, (National Cable Television Assoc., Inc. v. Copyright Royalty Tribunal), or March 15, 1983, whichever occurs first, no funds appropriated by this joint resolution or any other Act of Congress which provides funds for the Library of Congress and the Copyright Royalty Tribunal for fiscal year 1983 shall be expended to implement, enforce, award, or collect royalty fees under, and no obligation or liability for copyright royalty fees shall accrue until March 15, 1983 pursuant to, the decision announced by the Copyright Royalty Tribunal on October 20, 1982, Docket Numbered 81-2, and any subsequent decision, order, memorandum, or opinion issued by the Tribunal in such docket, insofar as such decision and any subsequent decision, order, memorandum, or opinion relate to the establishment of a royalty rate of 3.75 per centum of the gross receipts of certain cable systems for the carriage of certain distant signal equivalents. Nothing in this

section shall be construed as barring the Copyright Royalty Tribunal from expending funds to decide, and to issue written materials with regard to its Docket Number 81-2, and to defend in court or elsewhere its decisions, orders, memoranda, or opinions in such docket or relating to the subject matter of such docket.

Nothing in this joint resolution shall inhibit the Library of Congress and the Copyright Office from expending funds duly appropriated for the general purpose of administering the Copyright Act, including the compulsory licensing provisions therein, except as solely and specifically related to implementation of the Copyright Royalty Tribunal's rate determination of October 20, 1982 as set out in 47 FR 52146 (November 19, 1982) until the Court of Appeals has rendered a final decision regarding said determination as it relates to the distant signal rate adjustment.

17 USC 101 *et seq.*

SEC. 144. Notwithstanding any provision of this joint resolution or any other law or regulation, payments for local educational agencies under the Act of September 30, 1950 (Public Law 874, 81st Congress) in Montana for fiscal year 1983 shall be computed from corrected 1981 financial data. The provisions of this section shall not apply unless the following conditions are met:

20 USC 236.

(1) No such payments shall be made until an audit is conducted. (2) No such payments shall be made prior to March 30, 1983. (3) The total amount of the increase in payments made by reason of this section shall not exceed \$3,000,000. (4) No such payments shall be made prior to the submission of the audit report to the Committee on Appropriations of the Senate and of the House of Representatives.

SEC. 145. Notwithstanding any other provision of this joint resolution, section 5546a(a) of title 5, United States Code, is amended (1) by deleting the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof a semicolon and the word "and", and (2) by inserting immediately after paragraph (2) of subsection (a) the following new paragraph:

"(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or directly responsible for training employees to perform the duties of a position described in subparagraph (a); (b); or (c) or paragraph (1) of this subsection, and who, immediately prior to assuming such position at such Academy, occupied a position referred to in subparagraph (a), (b), or (c) of paragraph (1) of this subsection."

SEC. 146. No funds, including funds provided in this joint resolution or in the account entitled "Expenses, Disposal of Surplus Real and Related Personal Property" (Account No. 47-5254-0-2-804), may be expended by the General Services Administration to proceed with any sale or disposal of real property and improvements known as the Naval and Marine Corps Reserve Center at Beaver-tail Point, Jamestown, Rhode Island, containing 6.81 acres, more or less, and identified by General Services Administration control number N-RI-482A.

SEC. 147. Section 1618 of the Social Security Act is amended by adding the following new subsection:

42 USC 1382g.

"(c) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its, supplementary payments for

any portion of the period July 1, 1980 through June 30, 1981, if the State's expenditures for such payments in that twelve-month period were not less than its expenditures for such payments for the period July 1, 1976 through June 30, 1977 (or, if the State made no supplementary payments in the period July 1, 1976 through June 30, 1977, the expenditures for the first twelve-month period extending from July 1 through June 30 in which the State made such payments)."

95 Stat. 893.  
42 USC 8621.

SEC. 148. There is appropriated \$25,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low income home energy assistance, which is in addition to amounts otherwise available for such title XXVI under this joint resolution.

SEC. 149. (A) Notwithstanding the first sentence of section 103(e)(4) of title 23, United States Code, the Secretary of Transportation shall approve the withdrawal from the Interstate System the route of Interstate Route 95 and Interstate Route 695 from the intersection with Interstate Route 295 in Hopewell Township, Mercer County, New Jersey, to the proposed intersection with Interstate Route 287 in Franklin Township, Somerset County, New Jersey.

23 USC 103.

(B) Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed, pursuant to section 103 of such title, to designate as part of the Interstate Highway System the New Jersey Turnpike from exit 10 to the interchange with the Pennsylvania Turnpike and the Pennsylvania Turnpike from such interchange to and including the proposed interchange with Interstate Route 95 in Bucks County, Pennsylvania.

(C) The Secretary of Transportation is further authorized and directed to designate Interstate Route 95 and assure through proper sign designations the orderly connection of Interstate Route 95 pursuant to this section.

30 USC 1235  
note.

SEC. 150. Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State under the provisions of the Surface Mining Control and Reclamation Act (91 Stat. 460) the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations Act.

30 USC 1235.

42 USC 300v.

SEC. 151. Notwithstanding Public Law 95-622, funds made available to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research under Public Law 97-216 shall remain available until March 31, 1983.

*Ante*, p. 180.

SEC. 152. Section 10526(a) of title 49, United States Code, is amended—

- (1) by striking "or" at the end of paragraph (12);
- (2) by striking the period at the end of paragraph (13), and inserting in lieu thereof "; or,"; and
- (3) by adding at the end thereof the following:
 

"(14) transportation of broken, crushed, or powdered glass."

*Ante*, p. 1186.

SEC. 153. None of the funds appropriated in this joint resolution or Public Law 97-276 shall be used for the development, initiation, or implementation of plans, drawings, architectural engineering work, design work, site preparation or acquisition for, or the construction of, any new Senate office buildings or additions to existing Senate office buildings. This provision does not apply to planning, construction, or completion for the Philip A. Hart Senate Office Building.

SEC. 154 Notwithstanding any other provision of law or this joint resolution, none of the funds provided for "International Organizations and Programs" under section 101(b) of this joint resolution shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest Africa Peoples Organization, or Cuba.

*Ante*, p. 1830.

SEC. 155. (a) It is the purpose of this section to provide the Secretary of Energy the exclusive authority for the disbursement of the designated petroleum violation escrow funds for limited restitutional purposes (1) which are reasonably expected to benefit the class of persons injured by such violations, and (2) which, based on information previously provided to Congress by the Secretary of Energy, are likely not to be, through procedures established by regulation, otherwise refunded to injured persons because the purchasers of the refined petroleum products cannot be reasonably identified or paid or because the amount of each purchaser's overcharge is too small to be capable of reasonable determination.

(b) As soon as practicable, the Secretary of Energy shall disburse designated petroleum violation escrow funds to the Governors of the States in accordance with the formula set forth in subsection (d).

(c) Amounts disbursed to the Governor of any state shall be used by the Governor as if such funds were received under one or more energy conservation programs. The Governor shall identify to the Secretary within one year after the time of disbursement the energy conservation program or programs to which the funds are or will be applied. Funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State law.

(d) The disbursement by the Secretary of Energy to each State shall be based on the ratio, calculated by the Secretary, which—

(1) the volume of refined petroleum products consumed within that State during the period beginning September 1, 1973, and ending January 28, 1981, bears to

(2) the volume of refined petroleum products consumed within all States during such period.

Calculations made by the Secretary of Energy under this subsection shall be based upon estimates by the Secretary from reasonably available information.

(e) For purposes of this section—

(1) The term "designated petroleum violation escrow funds" means amounts (not in excess of \$200,000,000) which are derived from settlements from alleged petroleum pricing and allocation violations generally resulting in overcharges to purchasers of refined petroleum products and held in trust accounts administered by the Department of Energy on December 17, 1982, and which—

(A) are not likely to be required for satisfying claims of potential claimants identified in the proceedings of the Office of Hearings and Appeals initiated prior to December 17, 1982, or identified in judicial proceedings initiated prior to such date; and

(B) the use of under this section would be consistent with the remedial order or consent order covering such funds.

(2) The term "energy conservation programs" means—

(A) the program under Part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following);

(D) program under the National Energy Extension Service Act (42 U.S.C. 7001 and following); and

(E) the program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 and following).

Definitions.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "Governor", when used with respect to any State, means the Governor or the chief executive officer of that State.

(5) The term "refined petroleum product" means gasoline, kerosene, distillates, (including Number 2 fuel oil), LPG (other than ethane), refined lubricating oils, diesel fuel, and residual fuel oil, but does not include refinery feedstocks.

(f) No funds disbursed under this section may be used for any administrative expenses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise.

42 USC 402 note.

SEC. 156. (a)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the surviving spouse of a member or former member of the Armed Forces described in subsection (c);

(B) who has in such person's care a child of such member or former member who has attained sixteen years of age but not eighteen years of age and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for such month; and

(C) who is not entitled for such month to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) by reason of having such child (or any other child of such member or former member) in her care.

42 USC 402.

42 USC 415.

(2) A payment under paragraph (1) for any month shall be in the amount of the mother's insurance benefit, if any, that such person would receive for such month under section 202(g) of the Social Security Act if such child were under sixteen years of age, disregarding any adjustments made under section 215(i) of the Social Security Act after August 1981. However, if such person is entitled for such month to a mother's insurance benefit under section 202(g) of such Act by reason of having the child of a person other than such member or former member of the Armed Forces in such person's care, the amount of the payment under the preceding sentence for such month shall be reduced (but not below zero) by the amount of the benefit payable by reason of having such child in such person's care.

(b)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the child of a member or former member of the Armed Forces described in subsection (c);



(B) who has attained eighteen years of age but not twenty-two years of age and is not under a disability as defined in section 223(d) of the Social Security Act (42 U.S.C. 423(d));

(C) who is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms were defined in section 202(d)(7) (A) and (C) of the Social Security Act as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 841)); and

42 USC 402.

(D) who is not entitled for such month to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) or is entitled for such month to such benefit only by reason of section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842).

42 USC 402 note.

(2) A payment under paragraph (1) for any month shall be in the amount that the person concerned would have been entitled to receive for such month as a child's insurance benefit under section 202(d) of the Social Security Act (as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 841)), disregarding any adjustments made under section 215(i) of the Social Security Act after August 1981, but reduced for any month by any amount payable to such person for such month under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842).

42 USC 415.

(c) A member or former member of the Armed Forces referred to in subsection (a) or (b) as described in this subsection is a member or former member of the Armed Forces who died on active duty before August 13, 1981, or died from a service-connected disability incurred or aggravated before such date.

(d)(1) The Secretary of Health and Human Services shall provide to the head of the agency such information as the head of the agency may require to carry out this section.

(2) The head of the agency shall carry out this section under regulations which the head of the agency shall prescribe. Such regulations shall be prescribed not later than ninety days after the date of the enactment of this section.

(e)(1) Unless otherwise provided by law—

(A) each time after December 31, 1981, that an increase is made by law in the dependency and indemnity compensation paid under section 411 of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (a) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the dependency and indemnity compensation rates under section 411 of such title are increased above the rates as in effect immediately before such increase; and

38 USC 411.

(B) each time after December 31, 1981, that an increase is made by law in the rates of educational assistance allowances provided for under section 1731(b) of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (b) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the educational assistance allowance rates provided for under section 1731(b) of such title are

38 USC 1731.

increased above the rates as in effect immediately before such increase.

(2) The amount of the benefit payable to any person under subsection (a) or (b) and the amount of any increase in any such benefit made pursuant to clause (1) or (2) of this subsection, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

(f) Payments under subsections (a) and (b) shall be made only for months after the month in which this section is enacted.

(g)(1) During fiscal year 1983 the Secretary of Defense shall transfer from time to time from the "Retired Pay, Defense" account of the Department of Defense to the head of the agency such amounts as the head of the agency determines to be necessary to pay the benefits provided for under subsections (a) and (b) during such fiscal year and to pay the administrative expenses incurred in paying such benefits during such fiscal year. The Secretary of Defense may transfer funds under this subsection in advance of the payment of benefits and expenses by the head of the agency.

(2) The head of the agency shall establish on the books of the agency over which he exercises jurisdiction a new account to be used for the payment of benefits under subsections (a) and (b) and shall credit to such account all funds transferred to him for such purpose by the Secretary of Defense.

(h) The head of the agency and the Secretary of Health and Human Services may enter into an agreement to provide for the payment by the Secretary or the head of the agency of benefits provided for under subsection (a) and benefits provided for under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) in a single monthly payment and for the payment by the Secretary or the head of the agency of benefits provided for under subsection (b) and benefits provided for under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) in a single monthly payment, if the head of the agency and the Secretary agree that such action would be practicable and cost effective to the Government.

#### Definitions.

(i) For the purposes of this section:

(1) The term "head of the agency" means the head of such department or agency of the Government as the President shall designate to administer the provisions of this section.

(2) The terms "active military, naval, or air service" and "service-connected" have the meanings given those terms in paragraphs (24) and (16), respectively, of section 101 of title 38, United States Code, except that for the purposes of this section such terms do not apply to any service in the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration.

SEC. 157. Upon request of the city of Tacoma, Washington, the Secretary of Commerce shall authorize such city to sell or lease to any person the Pantages Centre for the Performing Arts building, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965 (project numbered 07-11-02513), if such transfer documents provide for the operation of such facility as a performing arts center for at least twenty-five years after such transfer.

SEC. 158. For activities of the White House Conference on Productivity, including the conduct of regional and local conferences throughout the United States, as authorized by Public Law 97-367, \$1,500,000.

42 USC 3121  
note.

*Ante*, p. 1761.

SEC. 159. Funds in this joint resolution may not be made available for payment to the International Atomic Energy Agency unless the Board of Governors of the International Atomic Energy Agency certifies to the United States Government that the State of Israel is allowed to participate fully as a member nation in the activities of that Agency, and the Secretary of State transmits such certification to the Speaker of the House of Representatives and the President of the United States Senate.

SEC. 160. Notwithstanding any other provision of this joint resolution, there is appropriated \$100,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance, which is in addition to amounts otherwise available for such title XXVI under this joint resolution.

95 Stat. 893.  
42 USC 8621.

SEC. 161. The Nation's economy is entering the seventeenth month of a severe recession, with few signs of recovery;

Nearly twenty million people are underemployed or unemployed due to this recession;

Our Nation's steel, auto and housing industries and our agricultural sector remain mired in a depression;

Given the current underutilization of both labor and capital, lower interest rates will not rekindle inflation;

Lower interest rates are the key to higher employment, higher production and sustained economic growth; therefore, be it

Declared that it is the Sense of the Congress that: In recent months, the Board of Governors of the Federal Reserve and the Federal Open Market Committee have made a significant contribution to the lower interest rates without rekindling inflation, and that, with due regard for controlling inflation so as not to have an opposite effect of driving interest rates upward, they should continue to take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment.

SEC. 162. For an additional amount for "Employment and training assistance", \$25,000,000, which shall be for carrying out title III of the Job Training Partnership Act (Public Law 97-300).

*Ante*, p. 1364.

SEC. 163. None of the funds made available by this joint resolution shall be used to furnish, or facilitate the sale or transfer of, sensitive United States defense equipment, materials or technology to any country for which the President does not certify to the Congress that he has reliable assurances that such country will not transfer sensitive United States equipment, materials or technology in violation of agreements entered into under the Arms Export Control Act to any Communist country, or to any country which receives arms from a Communist country.

22 USC 2751  
note.

SEC. 164. Notwithstanding any other provision of this joint resolution, \$94,000 is appropriated to the United States Fish and Wildlife Service, "Resource Management".

SEC. 165. (a) Section 922(b)(5), title 18, United States Code, is amended by adding the words "except .22 caliber rimfire ammunition" after the words "or ammunition".

(b) Section 923(9), title 18, United States Code, is amended by adding the words "except .22 caliber rimfire ammunition" after the words "and ammunition" the first time they appear.

SEC. 166. Notwithstanding any other provision of law, an additional amount of \$2,000,000 shall be available to the Secretary of Labor to enter into a contractual or other agreement to support social science and historical studies of international labor issues.

SEC. 167. Notwithstanding any other provision of this joint resolution, there is appropriated to the Department of the Interior \$3,000,000 for National Park Service Construction.

Approved December 21, 1982.

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**LEGISLATIVE HISTORY—H.J. Res. 631:**

HOUSE REPORT: No. 97-959 (Comm. on Appropriations) and No. 97-980 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 14, considered and passed House.

Dec. 18, 19, considered and passed Senate, amended.

Dec. 20, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 51 (1982):

Dec. 21, Presidential statement.

Public Law 97-378  
97th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

Dec. 22, 1982

[H.R. 7144]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1983, and for other purposes, namely:

District of  
Columbia  
Appropriation  
Act, 1983.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1983, \$361,000,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-3406): *Provided*, That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982 under qualification standards other than those in effect on such date.

For payment to the District of Columbia for the fiscal year ending September 30, 1983, in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, \$11,800,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code 43-1552 and 43-1612).

For the Federal contribution to the Police Officers and Fire Fighters', Teachers' and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, Public Law 96-122, approved November 17, 1979 (93 Stat. 866), \$52,070,000.

SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, \$2,342,600: *Provided*, That this amount shall be available to the Metropolitan Police Department.

For the Department of Justice for use in the Superior Court Division of the United States Attorney's Office for the District of Columbia, \$800,000.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

(INCLUDING RESCISSION)

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, \$145,000,000, which shall

remain available until expended and be advanced upon request of the Mayor: *Provided*, That there is hereby rescinded \$48,832,500 in capital loan authority.

#### DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

#### GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$69,545,500: *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That not to exceed \$7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That none of the funds appropriated for the Office of Financial Management shall be apportioned and payable for debt service for short-term borrowing on the bond market: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated \$1,689,000 to pay legal, management, investment and other fees and administrative expenses of the District of Columbia Retirement Board of which \$425,000 shall be derived from the general fund and not to exceed \$1,264,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

Report to  
Congress.

#### ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$58,485,400: *Provided*, That the District of Columbia Housing Finance Agency established by section 201 of D.C. Law 2-135, effective March 3, 1979 (D.C. Code 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay \$4,000,000 to the general fund at an interest rate of 4 percent per annum for a term of fifteen years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or a part of the \$4,000,000 shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District only from available operating revenues of the Agency which are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such

payments shall be deposited into the general fund of the District of Columbia.

#### PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of one hundred and thirty passenger motor vehicles for replacement only for police-type use and five additional passenger motor vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, \$409,242,100, of which \$5,539,000 shall be payable from the revenue sharing trust fund: *Provided*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department is authorized to replace not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, Public Law 93-412, approved September 3, 1974 (88 Stat. 1090; D.C. Code 11-2601 et seq.) for fiscal year 1983 shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That not to exceed \$300,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That \$50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That not to exceed \$2,500 for the Joint Committee on Judicial Administration shall be available from this appropriation for official purposes: *Provided further*, That \$3,000,000 of this appropriation shall be available solely for the settlement of claims and suits provided for by An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia, approved February 11, 1929 (45 Stat. 1160; D.C. Code 1-1202).

#### PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$438,724,200, of which \$6,000,000 shall be payable from the revenue sharing trust fund: *Provided*, That \$515,000 of the funds provided for the District of Columbia Public Schools shall be used exclusively for the operation of the driver education program: *Provided further*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts for fiscal year 1983 a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the

nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That not less than \$7,257,800 of this appropriation shall be used exclusively for maintenance of the public schools.

#### HUMAN SUPPORT SERVICES

Human support services, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Services, \$466,890,500, of which \$4,972,600 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate under such contracts shall not exceed \$76 per diem and the outpatient rate shall not exceed \$12 per visit except for services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.), and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of An Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; 24 U.S.C. 168a): *Provided further*, That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.), shall not exceed \$24,748,700: *Provided further*, That \$14,490,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

#### TRANSPORTATION SERVICES AND ASSISTANCE

Transportation services and assistance, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia, and purchase of passenger-carrying vehicles for replacement only and purchase of twenty-nine additional passenger-carrying vehicles, \$135,712,400, of which \$2,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles.

#### ENVIRONMENTAL SERVICES AND SUPPLY

Environmental services and supply, \$38,337,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia: *Provided further*, That \$5,427,000 of this appropriation shall be transferred to the Water and Sewer Enterprise Fund as a miscellaneous revenue.



### PERSONAL SERVICES

For pay increases and related costs, to be transferred by the Mayor to the appropriate agencies or cost centers for fiscal year 1983 from which employees are properly payable, \$17,364,100, of which \$1,100,000 shall be solely for the Metropolitan Police Department.

### REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896); section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; D.C. Code 9-219, note); the Departments of Labor, and Health, Education, and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; D.C. Code 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; D.C. Code 47-321, note), including interest as required thereby, \$142,204,200.

### REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of eliminating the cash portion of the \$309,000,000 general fund accumulated deficit as of September 30, 1981, \$20,000,000.

### ENERGY ADJUSTMENT

The Mayor shall reduce authorized appropriations and expenditures within object class 30A (energy) within one or several of the various appropriation headings in this Act by \$2,078,500.

### CAPITAL OUTLAY

For construction projects as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code 43-1512 et seq.); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; D.C. Code 9-219); An Act to amend the District of Columbia Motor Vehicle Parking Facility Act of 1942, as amended, approved August 20, 1958 (72 Stat. 686); and the National Capital Transportation Act of 1969, approved

December 9, 1969 (83 Stat. 321; D.C. Code 1-2454 and 9-219); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended, \$83,885,600: *Provided*, That \$1,560,800 shall be available for project management and \$1,631,300 for design by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all such funds shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, Public Law 90-495, approved August 23, 1968 (82 Stat. 827, D.C. Code 7-134, note), for which funds are provided by this paragraph, shall expire on September 30, 1984, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date: *Provided further*, That upon expiration of any such project authorization the funds provided herein for such project shall lapse: *Provided further*, That the Mayor shall not request the advance of any moneys for new general fund capital improvement projects without the approval by resolution of the Council of the District of Columbia.

#### WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, \$107,195,900, of which \$16,726,500 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code 43-1512 et seq.), \$4,575,000: *Provided*, That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the heading Capital Outlay shall apply to projects approved under this heading.

#### WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$7,574,000: *Provided*, That the Convention Center Board, established by section 3 of the Washington Convention Center Management Act of 1979, D.C. Law 3-36, effective November 3, 1979 (D.C. Code 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

#### LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by Public Law 97-91 (95 Stat. 1174, 1175), as amended, for the purpose of implementing D.C. Law 3-172, effective March 10, 1981

(D.C. Code 22-1516 et seq.), \$1,184,500, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

### GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Consulting services.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Vouchers.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose; and those funds and programs for the Metropolitan Police Department under the headings "Public Safety and Justice" and "Personal Services" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department.

Maximum allowances.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed from time to time in the Federal Travel Regulations.

Automobile and motorcycle allowances.

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia may expend such funds without authorization by the Mayor.

Travel expenses and organization dues.

SEC. 106. Appropriations in this Act shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

Taxicab regulation.

SEC. 107. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or

Judgment payments.

affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 355; D.C. Code 47-1812.11).

SEC. 108. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 5(b) of the District of Columbia Public Assistance Act of 1962, approved October 15, 1962 (76 Stat. 915; D.C. Code 3-205), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, Public Law 90-445, approved July 31, 1968 (82 Stat. 462; 42 U.S.C. 3801).

Fiscal year  
limitation.

SEC. 109. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Overtime and  
temporary  
positions, cost  
limitation.

SEC. 110. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

Travel  
expenditure  
limitation.

SEC. 111. The total expenditure of funds appropriated by this Act for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed \$225,000.

Employment  
limitation.

SEC. 112. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1983, for the compensation of any person appointed—

(1) as a full-time employee to a permanent, authorized position in the District of Columbia government during any month when the number of such employees is greater than 33,268, which includes 32,211 for the general fund, 946 for the Water and Sewer Enterprise Fund, 70 for the Washington Convention Center Enterprise Fund, and 41 for the Lottery and Charitable Games Control Board Enterprise Fund: *Provided, That—*

(A) positions within this city employment limitation shall be set aside as the maximum number of permanent, authorized employees for the general fund as follows: Appropriated positions, 28,616, of which 9,248 shall be for Public Schools; intra-District positions, 1,430; District of Columbia General Hospital positions, 2,163; and

(B) the District of Columbia Public Schools and the District of Columbia General Hospital shall not exceed their respective employment limitations and are required to report monthly to the Mayor, for the purpose of maintaining controls on city-wide employment, regarding the total number of current employees and the total number of separations and filling of positions within their respective employment limitations; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

Partisan  
political  
activities.

SEC. 113. No funds appropriated in this Act for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

D.C. annual  
budget,  
transmittal to  
Congress.

SEC. 114. The annual budget for the District of Columbia government for fiscal year 1984 shall be transmitted to the Congress by not

later than April 15, 1983. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations or their duly authorized representatives.

SEC. 115. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code 47-421 et seq.).

SEC. 116. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 117. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Congressional or  
State legislation,  
partisan  
publicity.

SEC. 118. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Abortion  
funding.

SEC. 119. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowing from the United States Treasury: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

Borrowing and  
spending, report  
to Council of the  
District of  
Columbia and  
Congress.

SEC. 120. The Mayor shall not borrow any funds for capital projects from the United States Treasury unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

Capital project  
borrowing

SEC. 121. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 122. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

Police and  
firefighters,  
hiring

SEC. 123. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979).

Funds expended  
by  
reprogramming

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

Passenger  
automobile  
procurement.

SEC. 125. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

City  
Administrator,  
compensation.

SEC. 126. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1982 shall be deemed to be the rate of pay payable for that position for September 30, 1982.

Board members,  
compensation.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945 (D.C. Code 5-803(a)) the board members of the Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 127. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act, D.C. Law 2-139, enacted pursuant to the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93-198; 87 Stat. 744), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

Municipal waste  
disposal.

SEC. 128. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

Short title.

This Act may be cited as the "District of Columbia Appropriation Act, 1983".

Approved December 22, 1982.

#### LEGISLATIVE HISTORY—H.R. 7144 (S. 2917):

HOUSE REPORTS: No. 97-849 (Comm. on Appropriations) and No. 97-972 (Comm. of Conference).

SENATE REPORT No. 97-548 accompanying S. 2917 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 30, considered and passed House.

Dec. 7, considered and passed Senate, amended.

Dec. 17, House agreed to conference report; concurred in certain Senate amendments, in others with amendments.

Dec. 18, Senate agreed to conference report; concurred in House amendments.

Public Law 97-379  
97th Congress

An Act

To amend Public Law 96-432 relating to the United States Capitol Grounds.

Dec. 22, 1982

[H.R. 6417]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the following additional areas which are situated as follows:

U S. Capitol  
Grounds.  
Additional  
areas.  
40 USC 193a  
note

(1) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the south side of Pennsylvania Avenue, Northwest, between the west curb of First Street, Northwest and the east curb of Third Street, Northwest.

(2) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the north side of Maryland Avenue, Southwest, between the west curb of First Street, Southwest and the east curb of Third Street, Southwest.

(3) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the west side of First Street between the south curb of Pennsylvania Avenue, Northwest and the north curb of Maryland Avenue, Southwest.

(4) All sidewalks and contiguous areas presently under the jurisdiction of the District of Columbia located on the east side of Third Street between the south curb of Pennsylvania Avenue, Northwest and the north curb of Maryland Avenue, Southwest.

Approved December 22, 1982.

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LEGISLATIVE HISTORY—H.R. 6417

HOUSE REPORT No. 97-623 (Comm. on Public Works and Transportation)

SENATE REPORT: No. 97-651 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 12, considered and passed House.

Dec. 10, considered and passed Senate.

Public Law 97-380  
97th Congress

An Act

Dec. 22, 1982

[S. 1444]

Federal personal  
property.  
Donation for  
civil defense.  
50 USC app. 2251  
note.

To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) all Federal personal property which—

(A) was transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) is, on the date of enactment of this Act, on loan to a State or a State and local government jointly as a result of a written loan agreement executed by such Agency, and

(C) was transferred with the functions and property of such Agency to the Federal Emergency Management Agency, shall be disposed of in accordance with subsection (b).

(b) Whenever the Director of the Federal Emergency Management Agency certifies that property described in subsection (a) is being used by the State or local government holding such property for a purpose consistent with the purpose for which the property was furnished, the Administrator of General Services shall transfer title to such property to the appropriate State or local government.

Approved December 22, 1982.

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LEGISLATIVE HISTORY—S. 1444 (H.R. 1856):

HOUSE REPORT: No. 97-910, Pt. I accompanying H.R. 1856 (Comm. on Government Operations) and Pt. 2 (Comm. on Armed Services).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate.

Dec. 13, H.R. 1856 considered and passed House; proceedings vacated and S. 1444 passed in lieu.



Public Law 97-381  
97th Congress

An Act

To designate the southern Nevada water project the "Robert B. Griffith Water Project".

Dec 22, 1982

[S. 1681]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the southern Nevada water project, in Clark County, Nevada, shall hereafter be known and designated as the "Robert B. Griffith Water Project". Any reference in a law, map, regulation, document, record or other paper of the United States to that water project shall be held and considered to be a reference to the "Robert B. Griffith Water Project".

Robert B  
Griffith  
Water Project  
Designation.

Approved December 22, 1982.

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LEGISLATIVE HISTORY—S. 1681:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 1, considered and passed Senate.

Dec. 13, considered and passed House.

Public Law 97-382  
97th Congress

An Act

Dec. 22, 1982  
[S. 1894]

To permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

Indian Mineral  
Development  
Act of 1982.  
25 USC 2101  
note.  
Definitions.  
25 USC 2101.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Indian Mineral Development Act of 1982".

SEC. 2. For the purposes of this Act, the term—

(1) "Indian" means any individual Indian or Alaska Native who owns land or interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

(2) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; and

(3) "Secretary" means the Secretary of the Interior.

25 USC 2102.

SEC. 3. (a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into any joint venture, operating, production sharing, service, managerial, lease or other agreement, or any amendment, supplement or other modification of such agreement (hereinafter referred to as a "Minerals Agreement") providing for the exploration for, or extraction, processing, or other development of, oil, gas, uranium, coal, geothermal, or other energy or nonenergy mineral resources (hereinafter referred to as "mineral resources") in which such Indian tribe owns a beneficial or restricted interest, or providing for the sale or other disposition of the production or products of such mineral resources.

(b) Any Indian owning a beneficial or restricted interest in mineral resources may include such resources in a tribal Minerals Agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian.

Minerals  
Agreement,  
approval or  
disapproval.  
25 USC 2103.

SEC. 4. (a) The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other requirement of Federal law, whichever is later. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28, United States Code.

Enforcement.

(b) In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe or of any individual Indian who may be party to such agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social, and cultural effects on the tribe; and provisions for resolving disputes that may arise

between the parties to the agreement: *Provided*, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(c) Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(d) The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs, to disapprove a Minerals Agreement shall be deemed a final agency action. The district courts of the United States shall have jurisdiction to review the Secretary's disapproval action and shall determine the matter de novo. The burden is on the Secretary to sustain his action.

Delegation of  
authority.

(e) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement: *Provided*, That the Secretary shall continue to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement: *Provided further*, That nothing in this Act shall absolve the United States from any responsibility to Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreement between the United States and any Indian tribe.

Liability

Sec. 5. (a) the Secretary shall review, within ninety days of enactment of this Act, any existing Minerals Agreement, which does not purport to be a lease, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to enactment of this Act, to determine if such agreement complies with the purposes of this Act. Such review shall be limited to the terms of the agreement and shall not address questions of the parties' compliance therewith. The Secretary shall notify the affected tribe and other parties to the agreement of any modifications necessary to bring an agreement into compliance with the purposes of this Act. The tribe and other parties to such agreement shall within ninety days after notice make such modifications. If such modifications are not made within ninety days, the provisions of this Act may not be used as a defense in any proceeding challenging the validity of the agreement.

Review.  
25 USC 2104.

(b) The review required by subsection (a) of this section may be performed prior to the promulgation of regulations required under section 8 of this Act and shall not be considered a Federal action

within the meaning of that term in section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

Limitation.  
25 USC 2105.

SEC. 6. Nothing in this Act shall affect, nor shall any Minerals Agreement approved pursuant to this Act be subject to or limited by, the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a et seq.), as amended, or any other law authorizing the development or disposition of the mineral resources of an Indian or Indian tribe.

25 USC 2106.

SEC. 7. In carrying out the obligations of the United States, the Secretary shall ensure that upon the request of an Indian tribe or individual Indian and to the extent of his available resources, such tribe or individual Indian shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe or individual Indian to secure independent assistance.

Rules and  
regulations.  
25 USC 2107.

SEC. 8. Within one hundred and eighty days of the date of enactment of this Act, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this Act. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 3 of this Act which was submitted prior to the enactment of this Act, the Secretary shall evaluate and approve or disapprove such agreement based upon section 4 of this Act, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations implementing this Act have not been promulgated.

25 USC 2108.

25 USC 476, 477.

SEC. 9. Nothing in this Act shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended, to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act.

Approved December 22, 1982.

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#### LEGISLATIVE HISTORY—S. 1894:

HOUSE REPORT: No. 97-746 (Comm. on Interior and Insular Affairs).

SENATE REPORT: No. 97-472 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 30, considered and passed Senate.

Aug. 17, considered and passed House, amended.

Dec. 8, Senate concurred in House amendment with amendments.

Dec. 10, House concurred in Senate amendments.

Public Law 97-383  
97th Congress

An Act

To designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam".

Dec. 22, 1982  
[S. 2034]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Jones Bluff Lock and Dam, located on the Alabama River between Lowndes and Autauga Counties, Alabama, is designated and shall hereafter be known as the "Robert F. Henry Lock and Dam".

Robert F. Henry  
Lock and Dam.  
Designation.

(b) Any reference in a law, map, regulation, document, record, or other paper of the United States to that lock and dam shall be deemed to be a reference to the "Robert F. Henry Lock and Dam".

Approved December 22, 1982.

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LEGISLATIVE HISTORY—S. 2034:

SENATE REPORT: No. 97-416 (Comm. on Environment and Public Works).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
June 30, considered and passed Senate.  
Dec. 13, considered and passed House.

Public Law 97-384  
97th Congress

An Act

Dec. 22, 1982  
[S. 2710]

Charles C. Deam  
Wilderness,  
Hoosier  
National  
Forest, Ind.  
Establishment.  
16 USC 1132  
note.

To establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Hoosier National Forest, Indiana, which comprise approximately twelve thousand nine hundred and fifty-three acres as generally depicted on a map entitled "Charles C. Deam Wilderness—Proposed", dated April 30, 1982, are hereby designated as wilderness, and therefore as a component of the national wilderness system, and shall be known as the Charles C. Deam Wilderness.

SEC. 2. Subject to valid existing rights, the Charles C. Deam Wilderness as designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Access to land.

SEC. 3. Nothing in this Act shall affect the right of public access to cemeteries located within the Charles C. Deam Wilderness, including the Terril Cemetery. The right of access to privately-owned land completely surrounded by national forest lands within the area, designated by this Act as wilderness and to valid occupancies wholly within the area designated by this Act as wilderness shall be protected in accordance with the provisions of section 5 of the Wilderness Act.

16 USC 1134.  
Review.

SEC. 4. (a) The Congress finds that—

- (1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and
- (2) the Congress has made its own review and examination of national forest roadless areas in Indiana and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Indiana, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Indiana;

(2) with respect to the national forest lands in the State of Indiana which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of

16 USC 1600  
note.

1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

16 USC 1600  
note.

(3) areas in the State of Indiana reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

16 USC 1600  
note.

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Indiana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

**SEC. 5.** As soon as practicable after enactment of this Act, maps and legal descriptions of the Wilderness Area shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

Filing.

Approved December 22, 1982.

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**LEGISLATIVE HISTORY—S. 2710:**

HOUSE REPORT No. 97-948 Pt. I (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-557 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed Senate; action vitiated and bill returned to calendar.

Oct. 1, considered and passed Senate.

Dec. 13, considered and passed House.

Public Law 97-385  
97th Congress

## An Act

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Dec. 23, 1982  
[H.R. 2329]

Conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

Cherokee Nation  
of Oklahoma.  
Claims against  
U.S., judgment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946, as amended (the Indian Claims Commission Act, 60 Stat. 1049, 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims, or upon the United States District Court for the Eastern District of Oklahoma, to hear, determine, and render judgment, under the jurisdictional provisions of section 2 of the Indian Claims Commission Act of August 13, 1946, as amended (60 Stat. 1049, 1050; 25 U.S.C. 70a), on any claim which the Cherokee Nation of Oklahoma may have against the United States for any and all damages to Cherokee tribal assets related to and arising from construction of the Arkansas River Navigation System, including, but not limited to, the value of sand, gravel, coal, and other resources taken, the value of damsites and powerheads of dams constructed on that part of the Arkansas riverbed within Cherokee domain in Oklahoma, without the authority or consent of said Cherokee Nation; and also on any claim which the Cherokee Nation of Oklahoma may have against the United States resulting from any action under section 14 of the Act of April 26, 1906 (34 Stat. 137, 142), wherein the United States gave away to third parties lands for what are known as station grounds of railroads, said lands being segregated from Cherokee Nation tribal lands without compensation to said Cherokee Nation of Oklahoma therefor; all of said lands or interests therein being held by said Cherokee Nation by virtue of treaties and by patent issued by the United States granting said lands to said Cherokee Nation in fee simple, or otherwise.

Choctaw and  
Chickasaw  
Nations.

(b) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act approved August 13, 1946 (25 U.S.C. 70k), the Court of Claims or the United States District Court for the Eastern District of Oklahoma shall have jurisdiction to the



same extent as under subsection (a) of this Act to hear, determine, and render judgment on any claim of the Choctaw Nation and on any claim of the Chickasaw Nation against the United States for any damages to any tribal assets, lands, or interests of such Nations arising from the actions of the United States described in such subsection.

Approved December 23, 1982.

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**LEGISLATIVE HISTORY—H.R. 2329:**

HOUSE REPORT No. 97-453, pt. I (Comm. on the Judiciary)  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Mar. 16, 18, considered and failed of passage in House.

July 23, considered and passed House.

Dec. 10, considered and passed Senate.

Public Law 97-386  
97th Congress

## An Act

Dec. 23, 1982

[H.R. 4364]

To declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona.

Pascua Yaqui  
Tribe of Arizona.  
Land in trust.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That subject to all valid existing rights, all right, title, and interest of the United States in the following described tracts of lands shall be held by the United States in trust for the Pascua Yaqui Tribe of Arizona and shall be a part of the reservation of such tribe:

- (1) the east half of southeast quarter of section 22;
- (2) the northeast quarter of northeast quarter, south half of northeast quarter, north half of southeast quarter, south half of northwest quarter, southwest quarter of section 23;
- (3) the southwest quarter of northwest quarter of section 24; and
- (4) the southeast quarter of northeast quarter of northwest quarter of section 24.

SEC. 2. Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, or other legal right or legal interest which such person or entity may have in land described in section 1.

SEC. 3. The State of Arizona shall exercise criminal and civil jurisdiction over such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79).

Approved December 23, 1982.

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**LEGISLATIVE HISTORY—H.R. 4364:**

HOUSE REPORT No. 97-347 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-657 (Comm. on Indian Affairs).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): Dec. 3, considered and passed Senate, amended.

Dec. 10, House concurred in Senate amendments.

Public Law 97-387  
97th Congress

An Act

To amend the Peace Corps Act.

Dec. 23, 1982

[S. 2611]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 6 of the Peace Corps Act is amended by striking out “not to exceed” in the first proviso and by inserting in lieu thereof “not less than”.

(b) This amendment shall be effective as of December 29, 1981.

Approved December 23, 1982.

Peace Corps Act,  
amendment.  
22 USC 2505.

Effective date.  
22 USC 2505  
note.

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LEGISLATIVE HISTORY—S. 2611

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed Senate.

Dec. 17, considered and passed House

Public Law 97-388  
97th Congress

An Act

Dec. 23, 1982

[S. 3073]

To provide for the distribution within the United States of the United States Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson".

"Dumas Malone:  
A Journey With  
Mr. Jefferson,"  
distribution of  
film within U.S.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Dumas Malone: A Journey with Mr. Jefferson", and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Approved December 23, 1982.

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LEGISLATIVE HISTORY—S. 3073:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed Senate.

Dec. 17, considered and passed House.

Public Law 97-389  
97th Congress

An Act

To amend the Commercial Fisheries Research and Development Act of 1964.

Dec. 29, 1982

[H.R. 3942]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Fisheries Amendments of 1982".

Fisheries  
Amendments of  
1982.  
16 USC 779 note.

TITLE I—COMMERCIAL FISHERIES RESEARCH AND  
DEVELOPMENT ACT

SEC. 101. (a) Section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(a)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(2) by adding at the end thereof the following new paragraph:

"(3) \$5,000,000 for each of the fiscal years ending September 30, 1984, and September 30, 1985."

(b) Section 4(b) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by inserting ", and" at the end of paragraph (3); and

(3) by adding at the end thereof the following new paragraph:

"(4) \$2,500,000 for each of the fiscal years ending September 30, 1984, and September 30, 1985."

(c) Section 4(c) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(c)) is repealed.

TITLE II—MARINE MAMMAL PROTECTION

SEC. 201. Section 14 of the North Pacific Fisheries Act of 1954 (16 U.S.C. 1034) is amended to read as follows:

"SEC. 14. (a)(1) The Secretary of Commerce is directed to take such actions as are necessary and appropriate to determine the effect of the Japanese salmon drift gillnet fishery on marine mammal populations, and to reduce or eliminate the incidental taking of marine mammals, particularly Dall's porpoise, by this fishery. Such actions shall include, but not be limited to—

"(A) the placement of duly authorized observers of the United States onboard Japanese salmon fishing and research vessels while within the Fishery Conservation Zone, for the purpose of making scientific observations and studies relating to the biology of the Dall's porpoise and the incidental taking of marine mammals, seabirds, and king salmon of North American origin;

"(B) the collection of a representative sample of biological material and data on all marine mammals incidentally taken in the fishery; and

"(C) the adoption of requirements, by permit conditions or agreement, governing the incidental taking of marine mammals by Japanese salmon fishing vessels within the Fishery Conservation Zone, which will insure that new fishing gear or tech-

niques, or both, are implemented in the North Pacific salmon fishery which will reduce porpoise mortality to the greatest extent practicable.

“(2) The introduction of new fishing gear or techniques, or both, in the fishery under paragraph (1) of this subsection shall be accomplished no later than is specified in the following timetable:

“(A) 25 per centum of the fleet by the commencement of the 1984 season;

“(B) 50 per centum of the fleet by the commencement of the 1985 season;

“(C) 75 per centum of the fleet by the commencement of the 1986 season; and

“(D) 100 per centum of the fleet in order to be eligible for a new permit for the period after June 9, 1987.

The Secretary shall have the authority to decide, based upon available fishery research, which types of fishing gear or techniques offer the most practical and effective opportunity for reducing porpoise mortality, and to specify which of these fishing gear or techniques, or both, must be implemented during the time periods specified in subparagraphs (A) through (D) of this paragraph. In addition, the National Marine Fisheries Service may require the implementation of new gear types or fishing techniques, or both, on a faster schedule if the Service determines that faster implementation is technically and economically feasible.

General Permit,  
extension.

“(b) The General Permit issued under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) to the Federation of Japan Salmon Fisheries Cooperative Association on May 7, 1981 (hereinafter referred to as the ‘General Permit’), is extended through June 9, 1987, unless earlier terminated by the Secretary pursuant to applicable law: *Provided, That—*

“(1) all other provisions of the General Permit and applicable law shall remain in effect during that period;

Report,  
availability.  
Publication in  
Federal  
Register.

“(2) the Secretary shall by January 1 of each year during that period prepare and make available a report covering the results of the annual review required by condition B-2 of the General Permit and a proposed action plan for the forthcoming fishing season setting forth monitoring, research and development, and any other necessary actions to assure compliance with the General Permit, resolve questions about the status and trends of marine mammals affected by the Japanese high seas and land-based salmon gillnet fisheries, and reduce the annual incidental take of marine mammals in the Fishery Conservation Zone, and shall publish a notice of availability of the report in the Federal Register. The Secretary shall, by April 30 of each year during this period, prepare and make available a report covering a final action plan and shall publish a notice of availability of the report in the Federal Register.

“(3) the Memorandum of Understanding between the Government of the United States of America and the Government of Japan dated June 3, 1981, relating to such incidental taking shall be modified or renegotiated by June 9, 1984, so as to apply to this extended period and to ensure the conduct of necessary monitoring and research and development efforts to implement the action plans described in paragraph (2) of this subsection.

Publication in  
Federal  
Register.

“(c) The taking of marine mammals incidental to fishing operations by Japanese salmon fishing vessels within the Fishery Conservation Zone shall be regulated in accordance with the General

Permit, except that the Secretary shall take appropriate steps, including the suspension or modification of the General Permit, if the Secretary determines that the General Permit holder or certificate holders are not adhering to the conditions of the General Permit or to the conditions specified in paragraphs (a)(1)(C) and (a)(2) of this section and publishes such determination and its basis in the Federal Register.

“(d) The terms and conditions under which the General Permit is issued may be modified by the Secretary in such manner as the Secretary determines to be consistent with and necessary to carry out the purposes of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and this Act.

“(e) The Secretary shall ensure that any Memorandum of Understanding between the Government of Japan and the Government of the United States of America shall require no less of a commitment to marine mammal research and seabird research than that required by this section and the Memorandum of Understanding in effect on the date of enactment of the Fisheries Amendments Act of 1982.

*Ante*, p. 1949.

“(f)(1) In order to assure full implementation of the provisions of this section, the Secretary shall include as a condition of such General Permit and any Memorandum of Understanding that the Government of Japan or the permit holder, shall provide—

“(A) appropriate funding each year to carry out fully a joint research program on Dall’s porpoise and other marine mammals incidentally taken in the Japanese fishery; and

Research  
program  
funding.

“(B) a full report each year on the activities undertaken by the Government of Japan and the General Permit holder relating to marine mammal research and the progress toward the elimination of the incidental taking of marine mammals in the fishery.

Report.

“(2) If the Secretary finds that such research cannot be successfully conducted because of a lack of adequate funding by the Government of Japan or the General Permit holder the Secretary shall immediately suspend the General Permit until such time as adequate funding is provided.”

Permit  
suspension.

SEC. 202. The first sentence of section 201(b)(1) of the Act of October 21, 1972 (16 U.S.C. 1401(b)(1)), is amended to read as follows: “Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.”

Effective date.

### TITLE III—NORTH ATLANTIC SALMON TREATY

SEC. 301. This title may be cited as the “Atlantic Salmon Convention Act of 1982”.

SEC. 302. As used in this title, the term—

Atlantic Salmon  
Convention Act  
of 1982.  
16 USC 3601  
note.  
Definitions.  
16 USC 3601.

(1) “Act of 1976” means the Act entitled “An Act to provide for the conservation and management of the fisheries, and for other purposes”, approved April 13, 1976 (16 U.S.C. 1801 et seq.);

(2) “Commission” means any of the Commissions of the Organization that are established by the Convention;

(3) “Commissioner” means a United States Commissioner appointed under section 403 of this title;

(4) “Convention” means the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982;

(5) "Council" means the Council established by the Convention;

(6) "fishing" has the same meaning as such term has in section 3(10) of the Act of 1976 (16 U.S.C. 1802(10));

(7) "Organization" means the North Atlantic Salmon Conservation Organization established under the Convention;

(8) "person" has the same meaning as such term has in section 3(19) of the Act of 1976 (16 U.S.C. 1802(19)); and

(9) "salmon" means all species of salmon which migrate in or into the waters of the Atlantic Ocean north of 36 degrees north latitude.

Council and  
Commissions,  
membership.  
16 USC 3602.

SEC. 303. (a) The United States shall be represented on the Council and Commissions by three United States Commissioners to be appointed by the President to serve at his pleasure. Of such Commissioners, one shall be an official of the United States Government, and two shall be individuals (not officials of the United States Government) who are knowledgeable or experienced concerning the conservation and management of salmon of United States origin.

(b) The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of the Interior, may designate alternate United States Commissioners. In the absence of a Commissioner appointed under subsection (a) of this section, an alternate Commissioner may exercise at any meeting of the Organization, the Council, or any Commission all functions of such Commissioner.

Compensation.

(c) Individuals who serve as Commissioners and alternate Commissioners shall not receive any compensation for such service. Such individuals shall be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

5 USC 8101 *et*  
*seq.*, 28 USC 2671  
*et seq.*

(d) In carrying out their functions under the Convention, the Commissioners may consult with the appropriate Regional Fishery Management Councils established by section 302 of the Act of 1976 (16 U.S.C. 1852), and may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. App. 1 *et seq.*) shall not apply to consultations described in this subsection.

5 USC app.

16 USC 3603.

SEC. 304. (a) The Secretary of State may—

(1) receive, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of the Organization and its subsidiary organs;

(2) with the concurrence of the Secretary of Commerce and the Secretary of the Interior, approve, object to, or withdraw objections to regulatory measures proposed in accordance with the Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed regulatory measure.

(b) If the concurrence required under subsection (a)(2) of this section has not been obtained by the Secretary of State—

(1) regarding the approval of, or the objection to, a proposed regulatory measure within forty-five days after the measure was received on behalf of the United States; or

(2) regarding the withdrawal of an objection of the United States to a proposed regulatory measure within forty-five days after such withdrawal is proposed by the Secretary of State;



the Secretary of State shall submit the matter in disagreement, together with a statement of the opposing positions, to the President for timely disposition.

SEC. 305. (a) The Secretary of Commerce, in cooperation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating, shall promulgate such regulations pursuant to section 553 of title 5, United States Code, as may be necessary to carry out the purposes and objectives of the Convention and this title, and to implement regulatory measures that are binding on the United States under the Convention. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

Regulations.  
16 USC 3604.

(b) The Secretary of Commerce, in cooperation with the Secretary of the Interior, shall prepare all statements, reports, and notifications required by Articles 14 and 15 of the Convention and submit such documents to the Secretary of State for transmission to the Organization.

SEC. 306. (a) In carrying out the provisions of the Convention, the Secretary of Commerce, in consultation with the Secretary of the Interior, may arrange for the cooperation of agencies of the United States and the States, and of private institutions and organizations.

16 USC 3605.

(b) Appropriate agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention. Such agencies may accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 307. (a) It is unlawful for any person, or any vessel, subject to the jurisdiction of the United States—

16 USC 3606.

(1) to conduct directed fishing for salmon in waters seaward of twelve miles from the baselines from which the breadths of territorial seas are measured, in waters of the Atlantic Ocean north of 36 degrees north latitude; or

(2) to violate any provision of the Convention or this title, or of any regulation promulgated under this title.

(b) Any person who commits any act that is unlawful under subsection (a) of this section shall—

(1) be liable to the United States for a civil penalty under section 308 of the Act of 1976 (16 U.S.C. 1858) to the same extent as if such act were an act prohibited under section 307 of the Act of 1976 (16 U.S.C. 1857); and

(2) be guilty of an offense under section 309 of the Act of 1976 (16 U.S.C. 1859) to the same extent as if such act were an act prohibited by section 307(1) (D), (E), (F), or (H) of the Act of 1976 (16 U.S.C. 1857(1) (D), (E), (F), or (H)).

(c) Any vessel used in the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).

SEC. 308. The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and any regulation issued under this title. For purposes of such enforcement, such provisions and regulations shall be considered to be provisions of the Act of 1976 to which section 311

16 USC 3607.

(a), (b), (c), and (d) of the Act of 1976 (16 U.S.C. 1861 (a), (b), (c), and (d), respectively) apply.

Appropriation  
authorization.  
16 USC 3608.

SEC. 309. There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the Commissioners and alternate Commissioners in accordance with the Federal Travel Regulation and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code; and

(2) the United States contribution to the Organization as provided in Article 16 of the Convention, not to exceed \$50,000 for fiscal year 1983, and not to exceed, for each succeeding fiscal year, the amount assessed by the Organization for the United States for such year.

#### TITLE IV—GOVERNING INTERNATIONAL FISHERY AGREEMENTS

Effective date.  
16 USC 1823  
note.

SEC. 401. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Japan pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed at Washington on September 10, 1982, is approved, and shall become effective on January 1, 1983.

16 USC 1823  
note.

SEC. 402. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Spain pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed on July 29, 1982, is approved.

#### TITLE V—MISCELLANEOUS PROVISIONS

46 USC 65i, 65j.

SEC. 501. Notwithstanding the failure of the vessels named below to meet the requirements contained in sections 111 and 112 of the Vessel Documentation Act, as amended (46 U.S.C. 65 (i) and (j)), and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), on the date of this Act, the Secretary of the department in which the Coast Guard is operating shall cause the vessel Centurion (officially numbered 236815), owned by Joseph B. Simoncelli, of Scranton, Pennsylvania, and the vessel Ellen Ruth (officially numbered 282354) owned by Jefferson B. Bruton, of Isle of Palms, South Carolina, to be documented as vessels of the United States upon compliance with all other requirements of law, with the privilege of engaging in the coastwise trade.

46 USC 883.

SEC. 502. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: *Provided, however,* That the provisions of this sentence shall not

apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982, for a corporation wholly owned by a citizen of the United States; the term 'citizen of the United States', as used in this proviso, means a corporation as defined in sections 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States."

"Citizen of the United States."

Vessel inspections.

SEC. 503. (a) Section 20 of the Act of March 4, 1915 (38 Stat. 1185), as amended (46 U.S.C. 688) is amended—

(1) by redesignating that section as section 20(a); and

(2) by adding at the end thereof the following new subsection:

"(b)(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action, if the incident occurred—

"(A) while that person was in the employ of an enterprise engaged in the exploration, development, or production of off-shore mineral or energy resources—including but not limited to drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces; and

"(B) in the territorial waters or waters overlaying the continental shelf of a nation other than the United States, its territories, or possessions. As used in this paragraph, the term 'continental shelf' has the meaning stated in Article I of the 1958 Convention on the Continental Shelf.

"Continental shelf."

15 UST 471.

"(2) The provisions of paragraph (1) of this subsection shall not be applicable if the person bringing the action establishes that no remedy was available to that person—

"(A) under the laws of the nation asserting jurisdiction over the area in which the incident occurred; or

"(B) under the laws of the nation in which, at the time of the incident, the person for whose injury or death a remedy is sought maintained citizenship or residency."

Restriction.  
46 USC 688 note.

(b) The amendment made by this section does not apply to any action arising out of an incident that occurred before the date of enactment of this section.

SEC. 504. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by inserting the following immediately before the period at the end thereof: "*Provided further*, That for the purposes of this section, supplies aboard United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels, shall be considered ship's equipment and not merchandise".

Approved December 29, 1982.

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**LEGISLATIVE HISTORY—H.R. 3942:**

HOUSE REPORT No. 97-295 (Comm. on Merchant Marine and Fisheries).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Nov. 4, considered and passed House.

Vol. 128 (1982): Dec. 10, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 97-390  
97th Congress

An Act

To provide for appointment and authority of the Supreme Court Police, and for other purposes.

Dec. 29, 1982

[H.R. 6204]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first section of the Act entitled “An Act relating to the policing of the building and grounds of the Supreme Court of the United States”, approved August 18, 1949 (40 U.S.C. 13f), is amended—

Supreme Court  
Police.  
Appointment  
and authority.

(1) by striking out “special policemen” and inserting in lieu thereof “members of the Supreme Court Police”; and

(2) by striking out “, for duty” and all that follows through “adjacent streets”.

(b) Subsection (b) of section 7 of such Act (40 U.S.C. 13l(b)) is amended by striking out “promulgated under” and all that follows through the end of the subsection and inserting in lieu thereof “prescribed under this section shall be posted in a public place at the Supreme Court Building and shall be made reasonably available to the public in writing.”.

40 USC 13l.

(c)(1) Section 9 of such Act (40 U.S.C. 13n) is amended by striking out “SEC. 9. The special” and all that follows through “: *Provided*, That the Metropolitan Police force of the District of Columbia” and inserting in lieu thereof the following:

“SEC. 9. (a) The Marshal of the Supreme Court and the Supreme Court Police shall have authority, in accordance with regulations prescribed by the Marshal and approved by the Chief Justice of the United States—

“(1) to police the Supreme Court Building and grounds, and adjacent streets for the purpose of protecting persons and property;

“(2) in any part of the United States, to protect—

“(A) the person of the Chief Justice of the United States, any Associate Justice of the Supreme Court, and any official guest of the Supreme Court; and

“(B) the person of any officer or employee of the Supreme Court while such officer or employee is engaged in the performance of official duties;

“(3) in the performance of duties necessary for carrying out paragraph (1) of this subsection, to make arrests for any violation of a law of the United States or any State and any regulation under such law;

“(4) in the performance of duties necessary for carrying out paragraph (2) of this subsection, to make arrests for any violation of a law of the United States and any regulation under such law; and

“(5) to carry firearms as may be required for the performance of duties under this Act.

“(b) The Metropolitan police force of the District of Columbia”.

(2) Section 9 of such Act (40 U.S.C. 13n), as amended by paragraph (1) of this subsection, is further amended by adding at the end the following new subsections:

Expiration.  
Report to  
Congress.

“(c) The authority created under subsection (a)(2) shall expire three years after the date of enactment of this subsection. During the three-year effective period of subsection (a)(2), the Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection. Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section.

Definitions.

“(d) As used in this Act, the term—

“(1) ‘official guest of the Supreme Court’ means an individual who is a guest of the Supreme Court, as determined by the Chief Justice of the United States or any Associate Justice of the Supreme Court;

“(2) ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

“(3) ‘United States’, when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.”.

(d) Section 11 of such Act (40 U.S.C. 13p) is amended by adding at the end the following new sentence: “In addition to the property referred to in the preceding sentence, for the purposes of this Act, the Supreme Court grounds are comprised of any property under the custody and control of the Supreme Court as part of the Supreme Court grounds, including property acquired as provided by law on behalf of the United States in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building.”.

SEC. 2. Section 672(c) of title 28, United States Code, is amended—

(1) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraph:

“(8) Oversee the Supreme Court Police.”.

SEC. 3. Section 3 of the Act entitled “An Act to provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building”, approved December 15, 1980 (40 U.S.C. 13p note), is amended by striking out “Act of May 7, 1934 (40 U.S.C. 13a through 13p), as amended” and inserting in lieu thereof “Act entitled ‘An Act to provide for the custody and maintenance of the

United States Supreme Court Building and the equipment and grounds thereof", approved May 7, 1934 (40 U.S.C. 13a-13c), and section 6 of the joint resolution entitled 'Joint resolution to provide for the use and disposition of the bequest of the late Justice Oliver Wendell Holmes to the United States, and for other purposes', approved October 22, 1940 (40 U.S.C. 13e)".

Approved December 29, 1982.

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**LEGISLATIVE HISTORY—H.R. 6204 (S. 2601):**

HOUSE REPORT No. 97-704 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982).

Aug. 16, considered and passed House  
Oct. 1, considered and passed Senate, amended.  
Dec. 13, House concurred in Senate amendment.

Public Law 97-391  
97th Congress

An Act

Dec. 29, 1982

[H.R. 6588]

To provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes.

Cow Creek Band  
of Umpqua Tribe  
of Indians  
Recognition Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

25 USC 712 note.

SECTION 1. This Act may be cited as the “Cow Creek Band of Umpqua Tribe of Indians Recognition Act”.

DEFINITIONS

25 USC 712.

SEC. 2. For the purposes of this Act—

(1) the term “tribe” means the Cow Creek Band of Umpqua Tribe of Oregon; and

(2) the term “member”, when used with respect to the tribe, means a person enrolled on the membership roll of the tribe in accordance with section 5 of this Act.

EXTENSION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES

25 USC 712a.

SEC. 3. (a) **FEDERAL RECOGNITION.**—Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), or any other law, Federal recognition is extended to the Cow Creek Band of Umpqua Tribe of Oregon. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the tribe.

(b) **RESTORATION OF RIGHTS AND PRIVILEGES.**—All rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other Federal authority, which may have been diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), are restored, and the provisions of such Act shall be inapplicable to the tribe and to members of the tribe after the date of enactment of this Act.

(c) **FEDERAL SERVICES AND BENEFITS.**—Notwithstanding any other provision of law, the tribe and members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes upon the date of enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(d) **EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.**—Except as otherwise specifically provided in this Act, no provision contained



in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

#### ORGANIZATION OF TRIBE; CONSTITUTION AND BYLAWS

**SEC. 4.** The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto. 25 USC 712b

#### MEMBERSHIP ROLLS

**SEC. 5. (a) IN GENERAL.**—Membership in the tribe shall consist of every individual— 25 USC 712c.

(1) whose name appears on the tribal roll in effect on the date of enactment of this Act; or

(2) who is a descendant of any individual described in paragraph (1).

**(b) LIMITATION.**—Membership in the tribe pursuant to subsection (a) shall not entitle an individual, who is not otherwise entitled, to participate in any distribution of funds pursuant to a judgment under the Act approved May 26, 1980 (94 Stat. 372).

#### RULES

**SEC. 6.** The Secretary of the Interior may make such rules as are necessary to carry out the provisions of this Act. 25 USC 712d.

Approved December 29, 1982.

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#### LEGISLATIVE HISTORY—H.R. 6588

HOUSE REPORT No. 97-862 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 6, considered and passed House.

Dec. 16, considered and passed Senate.

Public Law 97-392  
97th Congress

An Act

Dec. 29, 1982  
[H.R. 6758]

To authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries.

Arms Export  
Control Act,  
amendment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Arms Export Control Act is amended by inserting after chapter 2A the following new chapter:

**“Chapter 2B.—SALES TO UNITED STATES COMPANIES FOR  
INCORPORATION INTO END ITEMS**

22 USC 2770.

“SEC. 30. GENERAL AUTHORITY.—(a) Subject to the conditions specified in subsection (b) of this section, the President may, on a negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of this Act. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this chapter: *Provided, however,* That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

22 USC 2778.

“(b) Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor’s delivery schedule.

“Defense  
articles,”  
and “defense  
services.”

“(c) For the purpose of this section, the terms ‘defense articles’ and ‘defense services’ mean defense articles and defense services as defined in sections 47(3) and 47(4) of this Act.”.

22 USC 2794.

**Sec. 2.** Sections 42(d) and 42(e) of the Arms Export Control Act are amended by striking out “and 29” wherever it appears and inserting in lieu thereof “29 and 30”. 22 USC 2791.

**Sec. 3.** Section 21(i)(1) of the Arms Export Control Act is amended by deleting the comma following “under this section” and inserting in lieu thereof “or under authority of chapter 2B,”. 22 USC 2761.

Approved December 29, 1982.

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**LEGISLATIVE HISTORY—H.R. 6758:**

SENATE REPORT No. 97-586 (Comm. on Foreign Relations).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Dec. 13, House concurred in Senate amendment.

Public Law 97-393  
97th Congress

## An Act

Dec. 29, 1982

[S. 816]

Clayton Act,  
amendment.

To amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4 of the Clayton Act (15 U.S.C. 15) is amended—

(1) by striking out “That” and inserting in lieu thereof “(a) Except as provided in subsection (b),” and

(2) by adding at the end thereof the following new subsections:

“(b)(1) Except as provided in paragraph (2), any person who is a foreign state may not recover under subsection (a) an amount in excess of the actual damages sustained by it and the cost of suit, including a reasonable attorney’s fee.

“(2) Paragraph (1) shall not apply to a foreign state if—

“(A) such foreign state would be denied, under section 1605(a)(2) of title 28 of the United States Code, immunity in a case in which the action is based upon a commercial activity, or an act, that is the subject matter of its claim under this section;

“(B) such foreign state waives all defenses based upon or arising out of its status as a foreign state, to any claims brought against it in the same action;

“(C) such foreign state engages primarily in commercial activities; and

“(D) such foreign state does not function, with respect to the commercial activity, or the act, that is the subject matter of its claim under this section as a procurement entity for itself or for another foreign state.

“(c) For purposes of this section—

Definitions.

“(1) the term ‘commercial activity’ shall have the meaning given it in section 1603(d) of title 28, United States Code, and

“(2) the term ‘foreign state’ shall have the meaning given it in section 1603(a) of title 28, United States Code.”.

Approved December 29, 1982.

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**LEGISLATIVE HISTORY—S. 816 (H.R. 5106):**

SENATE REPORT No. 97-78 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Apr. 27, H.R. 5106 considered and passed House.

Sept. 30, H.R. 5106 considered and passed Senate, amended.

July 9, considered and passed Senate.

Dec. 13, considered and passed House, amended.

Dec. 15, Senate concurred in House amendments.

Public Law 97-394  
97th Congress

## An Act

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Dec. 30, 1982  
[H.R. 7356]

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Interior  
Department and  
related agencies,  
appropriations  
for fiscal year  
1983.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR LAND AND  
WATER RESOURCES

## BUREAU OF LAND MANAGEMENT

## MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, \$330,226,000.

## CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$2,243,000, to remain available until expended.

## PAYMENTS IN LIEU OF TAXES

*Ante*, p. 877. For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 1601) \$96,320,000, of which not to exceed \$400,000 shall be available for administrative expenses: *Provided*, That this appropriation may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.

## LAND ACQUISITION

43 USC 1715,  
1748. For expenses necessary to carry out the provisions of sections 205 and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, \$311,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That the unexpended balances of funds appropriated to the Bureau of Land Management in the Heritage Conservation and Recreation Service "Land and Water Conservation Fund" shall be merged with this appropriation.

## OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; \$56,963,000, to remain available until expended: *Provided*, That the amount provided herein for the purposes of this appropriation on lands administered by the Forest Service shall be transferred to the Forest Service, Department of Agriculture: *Provided further*, That the amount appropriated herein for road construction on lands other than those administered by the Forest Service shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That twenty-five per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

## RANGE IMPROVEMENTS

For rehabilitation, protection, acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), sums equal to fifty per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses.

43 USC 1751.

43 USC 315b,  
315m.

## SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

43 USC 1719,  
1734, 1735, 1764.  
30 USC 185.  
43 USC 1652.

## MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omit-

43 USC 1737.

43 USC 1721

ted lands under section 211(b) of that Act, to remain available until expended.

#### ADMINISTRATIVE PROVISIONS

43 USC 1181f-4

43 USC 1752  
note.

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, insurance on official motor vehicles, aircraft, and boats operated by the Bureau of Land Management in Canada; and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$10,000: *Provided*, That appropriations herein made for the Bureau of Land Management expenditures in connection with the reverted Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis, for protection of lands for the State of Alaska: *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision or ninety days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed.

### FISH AND WILDLIFE AND PARKS

#### UNITED STATES FISH AND WILDLIFE SERVICE

##### RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related



to such resources; for the general administration of the Fish and Wildlife Service; for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, \$238,593,000; of which \$4,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended: *Provided*, That the only critical habitat to be designated under section 4(b)(2) of the Endangered Species Act of 1973 (Public Law 93-205), as amended, for the Northern Rocky Mountain Wolf in Idaho shall be coterminous with the boundaries of the Central Idaho Wilderness Areas, as established by Public Law 96-312: *Provided further*, That notwithstanding any other provision of this paragraph, \$2,000,000 is available to carry out the purposes of 16 U.S.C. 1535, to remain available until expended.

16 USC 1533.

16 USC 1132  
note, 1274, 1281  
note.

#### CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757f); \$16,665,000, to remain available until expended.

#### MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), \$2,000,000, to remain available until expended.

16 USC 715k-3,  
715k-5.

#### LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$27,200,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That the unexpended balances of funds appropriated to the Fish and Wildlife Service in the Heritage Conservation and Recreation Service "Land and Water Conservation Fund" shall be merged with this appropriation.

16 USC 4601-4—  
4601-11.

#### NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$5,760,000.

#### ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 124 passenger motor vehicles of which 113 are for replacement only (including 46 for police-type use); purchase of 4 new aircraft as additions; not to exceed \$200,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and

Private John  
Allen National  
Fish Hatchery.

*Ante*, p. 837.

to be accounted for solely on his certificate; insurance on official motor vehicles, aircraft, and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the national fish hatchery at Tupelo, Mississippi, shall hereafter be named the "Private John Allen National Fish Hatchery": *Provided further*, That the administrative/visitor facility at the Merritt Island NWR, Florida, for which funds were appropriated under the head "Construction and anadromous fish" in chapter VIII of Public Law 97-257 is hereby designated the Scott J. Manness-Beau W. Sauselein administrative/visitor facility and that the maintenance center not be named as provided in that account.

#### NATIONAL PARK SERVICE

##### OPERATION OF THE NATIONAL PARK SYSTEM

16 USC 20b note.

16 USC 461-467.

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed \$394,000 for the Roosevelt Campobello International Park Commission, and \$500,000 for the Volunteers-in-the-Park program, \$564,460,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): *Provided*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: *Provided further*, That \$85,000 shall be available for the National Park Service to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further*, That \$160,000 shall be available for operation, including maintenance and protection, of the former home of Harry S Truman at 219 North Delaware Street, Independence, Missouri, upon assumption of administrative jurisdiction thereof by the National Park Service pursuant to specific legislation similar to S. 3077, Ninety-seventh Congress, or pursuant to the general authority of the Act of August 21, 1935 (49 Stat. 666), or otherwise.

##### NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental and compliance

review, and grant administration, not otherwise provided for, \$9,887,000.

#### HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), \$26,000,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1984.

16 USC 470h.

#### CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), \$156,096,000, to remain available until expended, including \$15,000,000 for reconstruction of the Filene Center at Wolf Trap Farm Park for the Performing Arts to be available for obligation only as authorized by Public Law 97-310, not less than \$6,000,000 for nourishment of the Sandy Hook, New Jersey portion of Gateway NRA notwithstanding any other provisions of law, and not less than \$2,444,000 for Perry's Victory and International Peace Memorial, \$1,400,000 for the Federal share of the construction and development costs for the Alaska Interagency Visitor Centers in Anchorage, Fairbanks, and Tok, Alaska, pursuant to section 1305 of the Alaska National Interest Lands Conservation Act (Public Law 96-487).

16 USC 3195.

#### LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, \$142,505,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which \$75,000,000 is for the State Assistance program including \$4,381,000 to administer the program, \$5,000,000 is for Pinelands National Preserve: *Provided*, That unexpended balances of funds appropriated to the National Park Service in the Heritage Conservation and Recreation Service "Land and Water Conservation Fund" shall be merged with this appropriation: *Provided further*, That State administrative expenses associated with the State grant portion of the State Assistance program shall not exceed 15 percent: *Provided further*, That none of the State Assistance funds may be used as a contingency fund.

16 USC 4601-4-4601-11.

#### JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, \$4,247,000.

#### ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 helicopter for replacement only, 175 passenger motor vehicles of which 148 shall be for replacement only, including not to exceed 107 for police-type use and 13 buses;

and to provide, notwithstanding any other provision of law, at a cost not exceeding \$100,000, transportation for children in nearby communities to and from any unit to the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; and options for the purchase of land at not to exceed \$1 for each option: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System; and to provide insurance on official motor vehicles and aircraft operated by the National Park Service in Mexico and Canada: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into a cooperative agreement with the Smith River Fire Protection District, California, for a special use permit on lands within the boundary of Redwood National Park to permit construction of a fire station.

## ENERGY AND MINERALS

### GEOLOGICAL SURVEY

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

##### (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to mineral character and water and power resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; \$363,389,000 and \$16,200,000, to be derived by transfer from "Exploration of National Petroleum Reserve in Alaska": *Provided*, That \$44,164,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further*, That the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

**BARROW AREA GAS OPERATION, EXPLORATION, AND DEVELOPMENT**

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, \$6,400,000, to remain available until expended. 42 USC 6504.

**ADMINISTRATIVE PROVISIONS**

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 18 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the U.S. National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.

**MINERALS MANAGEMENT SERVICE****LEASING AND ROYALTY MANAGEMENT****(INCLUDING TRANSFER OF FUNDS)**

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; \$196,506,000 of which not less than \$31,601,000 shall be available for royalty management activities including general administration.

**BUREAU OF MINES****MINES AND MINERALS**

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, \$143,158,000, of which \$88,346,000 shall remain available until expended.

**ADMINISTRATIVE PROVISIONS**

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral

product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

##### REGULATION AND TECHNOLOGY

30 USC 1201  
note.

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$60,356,000, including the purchase of not to exceed 35 passenger motor vehicles for replacement only.

##### ABANDONED MINE RECLAMATION FUND

30 USC 1231.

*Ante*, p. 1749.

30 USC 1236.

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 10 passenger motor vehicles for replacement only, to remain available until expended, \$161,209,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 percent.

#### INDIAN AFFAIRS

##### BUREAU OF INDIAN AFFAIRS

##### OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission) of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order and payment of rewards for information or evidence concerning violations of law on Indian reservation lands or treaty fishing rights tribal use areas; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, \$843,508,000 of which \$9,350,000 shall be available until expended for transfer to the State of Alaska to assist in the basic operation and maintenance of Bureau-owned schools which are transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to

such schools on the same basis as other public schools, and of which not to exceed \$55,278,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1984, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1984: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531, \$3,899,000, to remain available until expended: *Provided further*, That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963, as amended (20 U.S.C. 2303(a)(1)(B)(iii)) by the Act of June 3, 1977 (Public Law 95-40): *Provided further*, That notwithstanding the provisions of section 6 of said Act of April 16, 1934, as added by section 202 of the Indian Education Assistance Act (88 Stat. 2213, 2214; 25 U.S.C. 457) funds appropriated pursuant to this or any other Act for fiscal years ending September 30 of 1982 and 1983 may be utilized to reimburse school districts for up to the full per capita cost of educating Indian students (1) who are normally residents of the State in which such school districts are located but do not normally reside in such districts, and (2) who are residing in Federal boarding facilities for the purpose of attending public schools within such districts; in addition, moneys received by grant to the Bureau of Indian Affairs from other Federal agencies to carry out various programs for elementary and secondary education, handicapped programs, bilingual education, and other specific programs shall be deposited into this account and remain available as otherwise provided by law.

25 USC 640d-18.

#### CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities; acquisition of lands and interests in lands; preparation of lands for farming; and architectural and engineering services by contract, \$67,250,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.

#### ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), \$43,585,000, to remain available until expended.

#### TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed \$3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in

18 USC 4124  
note.

advance or from date of admission); purchase of land improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government; relief of Indians, without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391), including cash grants: *Provided*, That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary.

#### REVOLVING FUND FOR LOANS

During fiscal year 1983, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$19,970,000.

#### INDIAN LOAN GUARANTY AND INSURANCE FUND

During fiscal year 1983, and within the resources and authority available, total commitments to guarantee loans may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed \$15,800,000.

#### ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans) shall be available for expenses of exhibits; purchase of not to exceed 258 passenger carrying motor vehicles of which 178 shall be for replacement only, which may be used for the transportation of Indians; advance payments for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes; and expenses required by continuing or permanent treaty provisions: *Provided*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to continue academic and residential programs of the Chilocco, Seneca, and Fort Sill boarding schools, Oklahoma; and Stewart boarding school, Nevada: *Provided further*, That no part of any appropriation to the Bureau of Indian Affairs shall be available to continue academic and residential programs at Mount Edgecumbe boarding school in Alaska after June 30, 1983: *Provided further*, That no part of any appropriation to the Bureau of Indian Affairs shall be used to subject the transportation of school children to any limitation on travel or transportation expenditures for Federal employees: *Provided further*, That notwithstanding any other provision of law: The following may be cited as the "Indian Claims Limitation Act of 1982."

SEC. 2. (a) Subsection (a) of section 2415 of title 28, United States Code, is amended by striking "after December 31, 1982" in the third

Indian Claims  
Limitation Act of  
1982.  
28 USC 2415  
note.



proviso and inserting in lieu the following: "sixty days after the date of publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided*, That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the date the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

(b) Subsection (b) of section 2415 of title 28, United States Code, is amended by striking "December 31, 1982" in the proviso and inserting in lieu the following: "sixty days after the date of the publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided*, That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

SEC. 3. (a) Within ninety days after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register a list of all claims accruing to any tribe, band or group of Indians or individual Indian on or before July 18, 1966, which have at any time been identified by or submitted to the Secretary under the "Statute of Limitation Project" undertaken by the Department of the Interior and which, but for the provisions of this Act, would be barred by the provisions of section 2415 of title 28, United States Code: *Provided*, That the Secretary shall have the discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

(b) Such list shall group the claims on a reservation-by-reservation, tribe-by-tribe, or State-by-State basis, as appropriate, and shall state the nature and geographic location of each claim and only such other additional information as may be needed to identify specifically such claims.

(c) Within thirty days after the publication of this list, the Secretary shall provide a copy of the Indian Claims Limitation Act of 1982 and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band or group whose rights or the rights of whose members could be affected by the provisions of section 2415 of title 28, United States Code.

SEC. 4. (a) Any tribe, band or group of Indians or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in section 3 of this Act to submit to the Secretary any additional specific claim or claims which such tribe, band or group of Indians or individual Indian believes may be affected by section 2415 of title 28, United States Code, and desires to have considered for litigation or legislation by the United States.

(b) Any such claim submitted to the Secretary shall be accompanied by a statement identifying the nature of the claim, the date when the right of action allegedly accrued, the names of the potential plaintiffs and defendants, if known, and such other information needed to identify and evaluate such claim.

*Infra*.  
Notice,  
publication in  
Federal  
Register.  
28 USC 2415  
note.

Notice,  
publication in  
Federal  
Register.

Claims list,  
publication in  
Federal  
Register.  
28 USC 2415  
note.

28 USC 2415  
note.

Additional  
claims,  
submittal to  
Secretary.  
28 USC 2415  
note.  
*Supra*

Additional  
claims list,  
publication in  
Federal  
Register.

(c) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (a) of this section, the Secretary shall publish in the Federal Register a list containing the additional claims submitted during such period: *Provided*, That the Secretary shall have the discretion to exclude from such list any matter which has not been sufficiently identified as a claim.

28 USC 2415  
note.  
*Ante*, p. 1977.

SEC. 5. (a) Any right of action shall be barred sixty days after the date of the publication of the list required by section 4(c) of this Act for those pre-1966 claims which, but for the provisions of this Act, would have been barred by section 2415 of title 28, United States Code, unless such claims are included on either of the lists required by section 3 or 4(c) of this Act.

28 USC 2415  
note.  
Rejected claims,  
report.

(b) If the Secretary decides to reject for litigation any of the claims or groups or categories of claims contained on either of the lists required by section 3 or 4(c) of this Act, he shall send a report to the appropriate tribe, band, or group of Indians, whose rights or the rights of whose members could be affected by such rejection, advising them of his decision. The report shall identify the nature and geographic location of each rejected claim and the name of the potential plaintiffs and defendants if they are known or can be reasonably ascertained and shall, briefly, state the reasons why such claim or claims were rejected for litigation. Where the Secretary knows or can reasonably ascertain the identity of any of the potential individual Indian plaintiffs and their present addresses, he shall provide them with written notice of such rejection. Upon the request of any Indian claimant, the Secretary shall, without undue delay, provide to such claimant any nonprivileged research materials or evidence gathered by the United States in the documentation of such claim.

Notice.

Notice,  
publication in  
Federal  
Register.

(c) The Secretary, as soon as possible after providing the report required by subsection (b) of this section, shall publish a notice in the Federal Register identifying the claims covered in such report. With respect to any claim covered by such report, any right of action shall be barred unless the complaint is filed within one year after the date of publication in the Federal Register.

Legislation or  
report, submittal  
to Congress.  
28 USC 2415  
note.

SEC. 6. (a) If the Secretary determines that any claim or claims contained in either of the lists as provided in sections 3 or 4(c) of this Act is not appropriate for litigation, but determines that such claims may be appropriately resolved by legislation, he shall submit to the Congress legislation to resolve such claims or shall submit to Congress a report setting out options for legislative resolution of such claims.

(b) Any right of action on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

## TERRITORIAL AND INTERNATIONAL AFFAIRS

### ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, \$73,892,000, of which (1) not to exceed \$72,011,000 shall be available until expended for technical assistance and grants to the judiciary in American Samoa for compensation and expenses, as authorized by

law (48 U.S.C. 1661(c)); grants to American Samoa, in addition to current local revenues, for support of governmental functions; Economic Development Loan Fund grants to Guam, as authorized by law (48 U.S.C. 1428-1428e; Public Law 95-134; 91 Stat. 1161, 1162, 1163; Public Law 95-348; 92 Stat. 487, 488); grants to the Government of the Virgin Islands as authorized by law (Public Law 95-348, 92 Stat. 490); construction grants to Guam of \$8,028,000 as authorized by Public Law 97-357; direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241, 90 Stat. 272, and Public Law 96-205, 94 Stat. 86); and (2) not to exceed \$1,881,000 for fiscal year 1983 salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the Territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of Territories may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary: *Provided further*, That all financial transactions of the Territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834).

*Ante*, p. 1705.

48 USC 1401f,  
1423l, 1665.

48 USC 1470a

48 USC 1469b.

#### TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions; \$95,810,000, of which \$77,410,000 is for operations, and \$18,400,000 for construction, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary in carrying out the provisions of article 6(2) of the Trusteeship Agreement approved by Congress.

48 USC 1683.

48 USC 1682.

48 USC 1687.

## DEPARTMENTAL OFFICES

## OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, \$41,589,000, of which not less than \$400,000 is for reimbursement to the United States Park Police and not to exceed \$10,000 may be for official reception and representation expenses.

## CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, \$896,000.

## OFFICE OF THE SOLICITOR

For necessary expenses of the Office of the Solicitor, \$18,404,000.

## OFFICE OF THE INSPECTOR GENERAL

*Ante*, p. 1705.

For necessary expenses of the Office of the Inspector General, \$21,500,000 including \$2,600,000 to be available for fiscal year 1983 expenses of the offices of the Government Comptroller for the Virgin Islands, the Government Comptroller for Guam, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Government Comptroller for American Samoa, as authorized by law (Public Law 95-134, 91 Stat. 1161, 1162; Public Law 96-205, 94 Stat. 85, 90; Public Law 97-357): *Provided*, That the Inspector General shall certify quarterly to the appropriate committees of the Congress on the faithful execution of laws administered by the Department: *Provided further*, That vacancies occurring in the offices of the Government Comptrollers may not be reallocated to any other organization unless approved through reprogramming procedures.

## OFFICE OF WATER POLICY

42 USC 7801  
note.

For necessary expenses of the Office of Water Policy to develop and administer a water policy for the Department of the Interior pertinent to lands and resources managed thereby, \$1,768,000, and \$6,000,000 to be transferred to the Bureau of Reclamation, to remain available until expended, of which \$5,000,000 shall be used to continue research consistent with programs identified in 42 U.S.C. 7816 and \$1,000,000 shall be used to administer projects transferred from the Office of Water Research and Technology and \$6,350,000 for expenses necessary in carrying out the provisions of the Water Research and Development Act of 1978 (Public Law 95-467).

## ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition, from available resources within the Working Capital Fund, 5 additional aircraft, all of which may be from surplus: *Provided*, That no programs funded with appropriated funds may be augmented through the Working Capital Fund or the Consolidated Working Fund.

## GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the

approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction, and for emergency reclamation projects under section 410 of Public Law 95-87, and shall transfer, from any no year funds available, to the Office of Surface Mining such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act, such funds to be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

30 USC 1240.

30 USC 1201.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided*, That reimbursements for costs and supplies, materials, equipment and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$300,000, with not more than \$7,500 to be paid to any one company or individual; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of the following tracts within the Block, Hudson, Toms, Carteret, Lindenkhof, Spencer, Wilmington, Baltimore, Washington, or Norfolk Canyons of Outer Continental Shelf Lease Sale Numbered 76: Block Canyon, NK 19-10: 945, 946, 989, 990; Hudson Canyon, NJ 18-3: 290, 291, 334, 335, 336, 379, 380, 423-427, 467-471, 513-515, 558, 559; Toms Canyon, NJ 18-3: 815, 859; Lindenkhof Canyon, NJ 18-6: 193-194; Wilmington Canyon, NJ 18-6: 491, 492, 535, 536, 579, 580, 624; Baltimore Canyon, NJ 18-6: 750, 751, 794, 838, 882, 883; Washington Canyon, NJ 18-8: 515, 516, 559, 560, 604; and Norfolk Canyon, NJ 18-8: 907, 908, 909, 951, 952, 953, 997.

SEC. 109. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 110. Notwithstanding any other provision of law, section 1002 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) (16 U.S.C. 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost."

## TITLE II—RELATED AGENCIES

### DEPARTMENT OF AGRICULTURE

#### FOREST SERVICE

##### FOREST RESEARCH

For necessary expenses of forest research as authorized by law, \$105,021,000.

##### STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, \$62,328,000, of which \$58,828,000 shall remain available for obligation until September 30, 1984, to carry out activities authorized in Public Law 95-

313: *Provided*, That a grant of \$3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

16 USC 2101  
note.

92 Stat. 1652.

#### NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", \$1,010,436,000, of which \$182,500,000 for reforestation and timber stand improvement, cooperative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1984.

#### CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, \$281,431,000, to remain available until expended, of which \$26,316,000 is for construction and acquisition of buildings and other facilities; and \$246,115,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205; and \$9,000,000, to remain available until expended, for final payment, subject to the execution of a final agreement between the Secretary of the Interior, the Secretary of Agriculture, and the Chugach Natives, Incorporated, for the final settlement of land claims of the Chugach Natives, Incorporated, as authorized by section 1302(h) and section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204): *Provided*, That funds becoming available in fiscal year 1983 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That no more than \$240,000,000, to remain available without fiscal year limitation, shall be obligated for the construction of forest roads by timber purchasers.

94 Stat. 2474,  
2531.  
43 USC 1621

#### YOUTH CONSERVATION CORPS

There is appropriated \$10,000,000, of which \$3,400,000 is hereby transferred to "National Forest System", \$3,300,000 is hereby transferred to "Operation of the National Park System", National Park Service, and \$3,300,000 is hereby transferred to "Resource Management", United States Fish and Wildlife Service, for high priority projects which shall be carried out as if authorized by Public Law 93-408.

16 USC  
1701-1706.

#### LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$56,877,000, to be derived from the Land and Water Conservation Fund, to remain available

16 USC 4601-4-  
4601-11

until expended: *Provided*, That the unexpended balance of funds appropriated to the Forest Service in Heritage Conservation and Recreation Service "Land and Water Conservation Fund" shall be merged with this appropriation.

#### ACQUISITION OF LANDS FOR NATIONAL FORESTS

##### SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache National Forest, Utah; Uinta and Wasatch National Forests, Utah; Toiyabe National Forest, Nevada; Angeles National Forest, California; and, San Bernardino and Cleveland National Forests, California, as authorized by law, \$753,000, to be derived from forest receipts.

#### ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967 (16 U.S.C. 484a), all funds deposited by public school authorities pursuant to that Act, to remain available until expended.

##### RANGE BETTERMENT FUND

43 USC 1751.

For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, to remain available until expended.

##### MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), \$90,000, to remain available until expended, to be derived from the fund established pursuant to 16 U.S.C. 1643(b).

#### ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 223 passenger motor vehicles of which 8 will be used primarily for law enforcement purposes and of which 210 shall be for replacement only, acquisition of 217 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 4 for replacement only, and acquisition of 49 aircraft from excess sources; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the United States Forest Service, not in excess of \$400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); and (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish



any region, to move or close any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest.

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

## DEPARTMENT OF ENERGY

### FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), \$215,514,000 and \$31,700,000 to be derived by transfer from the account in Public Law 96-126 (93 Stat. 970 (1979)) entitled "Alternative Fuels Production", and \$40,000,000 to be derived by transfer from the account in Public Law 96-304 entitled "Energy Security Reserve" established to carry out the provisions set forth in section 204(a)(2) of the "Energy Security Act" (Public Law 96-294), to remain available until expended: *Provided*, That no part of the sum herein appropriated

42 USC 7101  
note

42 USC 5915  
note

42 USC 8803

42 USC 5915  
note.

shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That the facilities associated with the Carbondale Mining Research Center shall be made available to the Department of Energy for lease or other suitable arrangement by the Department of Energy to Southern Illinois University: *Provided further*, That \$2,000,000 appropriated under the account entitled "Alternative Fuels Production" in Public Law 96-126 (93 Stat. 970 (1979)), for project development feasibility studies, is hereby transferred to this account to be used until expended for a jointly funded feasibility study of a Western Hemisphere alternative fuels facility which would utilize coal exported from the United States.

#### NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, \$222,000,000, to remain available until expended.

#### ENERGY CONSERVATION

##### (INCLUDING TRANSFER OF FUNDS)

92 Stat. 47.

For necessary expenses in carrying out energy conservation activities, \$279,290,000 and \$64,000,000 to be derived by transfer from "Fossil energy construction", Department of Energy, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed under section 10 of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended (15 U.S.C. 2509), shall not exceed the aggregate of \$16,000,000: *Provided further*, That the funds for low-income weatherization activities appropriated under this Act shall be expended according to the regulations pertaining to the maximum allowable expenditures per dwelling unit which were in effect on October 1, 1982, and to the regulations pertaining to priority in providing weatherization assistance which were in effect on October 1, 1982: *Provided further*, That \$34,400,000 shall be transferred to the Administrator, National Aeronautics and Space Administration for program management of the advanced automobile propulsion systems development program and the heavy duty transport program established in Public Law 95-238.

#### ECONOMIC REGULATION

42 USC 8301  
note.

For necessary expenses in carrying out the activities of the Economic Regulatory Administration, the Office of Hearings and Appeals and emergency preparedness activities, \$35,106,000: *Provided*, That \$2,000,000 of the funds herein appropriated shall be available for the fuels conversion program, of which not less than \$1,500,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws.

#### SPR PETROLEUM ACCOUNT

95 Stat. 619.

95 Stat. 357.

The aggregate amount that may be obligated under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), for the acquisition and transportation of petroleum, and for other necessary expenses is \$2,074,060,000, in addition

to authority provided for fiscal year 1982, to remain available until expended.

#### ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$56,400,000.

#### ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From this appropriation, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That (1) revenues received from the sale of any products produced in facilities other than demonstration plants operated as part of Department of Energy programs appropriated under this Act shall be covered into the Treasury as miscellaneous receipts; and (2) revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with demonstration plant projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period.

Contracts, submittal to congressional committees.

Where the Secretary has the legal authority under other provisions of law, including other provisions of this Act, to undertake projects for the design, construction, or operation of Government-owned facilities for developing or demonstrating the conversion of coal into gaseous, liquid, or solid hydrocarbon products, the Secretary may use the authority contained in Public Law 85-804 (50 U.S.C. 1431-1435), with respect to such contracts or agreements for

Coal conversion.

50 USC  
1431-1435.

or related to such projects: *Provided*, That any contract, agreement, or provision thereof entered into by the Secretary using the authority of Public Law 85-804 shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period. The notification required herein shall be in lieu of the notification requirements of Public Law 85-804.

Funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of Wyoming, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the oil shale, underground coal conversion, and tar sands programs. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the Laramie Energy Technology Center at Laramie, Wyoming (including leasehold interests, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody on land not owned by the Government but which is a part of the center, where the Secretary determines that such transfer is integral to the future activities of the university): *Provided further*, That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be performed by the university entered into by the university and the Department before such transfer is completed: *Provided further*, That funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of North Dakota, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the low rank coal program. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the lignite coal research laboratory established pursuant to the Act of March 25, 1948 (30 U.S.C. 401 et seq.), at Grand Forks, North Dakota. The transfer shall be deemed in furtherance of that Act: *Provided further*, That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be

performed by the university entered into by the university and the Department before such transfer is completed.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contract agreement or arrangement to conduct petroleum related research and development at the facilities of the Department of Energy at the Bartlesville Energy Technology Center in Bartlesville, Oklahoma, with a qualified nonprofit institution on a cost-shared basis for the purpose of carrying out such research and development. Any contract, agreement, or arrangement entered into by the Department of Energy and a nonprofit institution shall establish a joint and/or co-operative relationship which reflects the interest of the Federal Government and the States in conducting such research and development and that the research results shall be available to the public: *Provided*, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period.

Contract agreement or arrangement to conduct research.

Contracts, submittal to congressional committees.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HEALTH SERVICES ADMINISTRATION

#### INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 757 of the Public Health Service Act, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, \$645,583,000: *Provided*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1984. Funds provided in this Act, may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That \$5,000,000 of the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be used to carry out the purposes for which this appropriation is made and any additional collections shall be available until September 30, 1984, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That funding

42 USC  
2001-2004b.  
25 USC 450 note.  
25 USC 1601  
note.  
42 USC 241, 219,  
254r

42 USC 1395f,  
1395n, 1395qq  
and notes, 1396j  
and notes, 1396d;  
25 USC 1671  
note.  
42 USC 1395,  
1396

25 USC 1613.  
42 USC 254r.

contained herein, and in any earlier appropriations Act, for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 757 of the Public Health Service Act shall remain available for expenditure until September 30, 1984.

#### INDIAN HEALTH FACILITIES

25 USC 450 note.  
25 USC 1601  
note.

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings, purchase of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, \$34,700,000, to remain available until expended.

#### ADMINISTRATIVE PROVISIONS, HEALTH SERVICES ADMINISTRATION

42 USC 1395f,  
1395n, 1395qq  
and notes, 1396j  
and notes, 1396d.

Appropriations in this Act to the Health Services Administration, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at the Talihina Hospital in Talihina, Oklahoma, and the Zuni-Ramah Indian Health Service Unit in Zuni, New Mexico, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That notwithstanding current regulations, eligibility for Indian Health Services shall be extended to non-Indians in only two situations: (1) a non-Indian woman pregnant with an eligible Indian's child for the duration of her pregnancy through postpartum, and (2) non-Indian members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard.

## DEPARTMENT OF EDUCATION

## OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

## INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, Part A (\$48,465,000), and Parts B and C (\$16,193,000) of the Indian Education Act, and the General Education Provisions Act, \$67,247,000.

86 Stat. 334, 339,  
342; 20 USC  
1221.

## NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

## SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, \$7,665,000, to remain available until expended, for operating expenses of the Commission: *Provided*, That no bonus payments or relocation assistance shall be provided to any person who was not physically residing within the Joint Use Area as of the date of enactment of this Act.

25 USC 640d—  
640d-24.

## SMITHSONIAN INSTITUTION

## SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to 3 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; \$144,366,000 including \$1,000,000 to be made available to the trustees of the John F. Kennedy Center for the Performing Arts for payment to the National Symphony Orchestra for activities related to responsibilities as resident orchestra of the Center: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That none these funds shall be available to a Smithsonian Research Foundation.

## MUSEUM PROGRAMS AND RELATED RESEARCH

## (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, \$2,000,000, to remain available until expended and to be available only to United States institutions: *Provided*, That this appropriation shall be available, in addition to

other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: *Provided further*, That none of these funds shall be available to a Smithsonian Research Foundation: *Provided further*, That not to exceed \$500,000 may be used to make grant awards to employees of the Smithsonian Institution.

#### CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, \$1,550,000, to remain available until expended.

#### RESTORATION AND RENOVATION OF BUILDINGS

20 USC 53a. For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed \$10,000 for services as authorized by 5 U.S.C. 3109, \$8,450,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

#### SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

20 USC 71.  
20 USC 74. For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and not to exceed \$100,000 for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$32,878,000, of which not to exceed \$4,900,000 for the repair, renovation, and restoration program of the original West Building shall remain available until expended.

#### SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

20 USC 80e note. For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$2,321,000.



**NATIONAL FOUNDATION ON THE ARTS AND THE  
HUMANITIES****NATIONAL ENDOWMENT FOR THE ARTS****SALARIES AND EXPENSES**

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$114,275,000 of which \$101,675,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and \$12,600,000 shall be available for administering the functions of the Act.

20 USC 951 note.

20 USC 954

**MATCHING GRANTS**

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$29,600,000, to remain available until September 30, 1984, to the National Endowment for the Arts, of which \$18,400,000 shall be available for purposes of section 5(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

20 USC 959.

20 USC 954.

20 USC 960.

**NATIONAL ENDOWMENT FOR THE HUMANITIES****SALARIES AND EXPENSES**

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$102,132,000 of which \$90,432,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and \$11,700,000 shall be available for administering the functions of the Act.

20 USC 951 note.

20 USC 956.

**MATCHING GRANTS**

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$27,928,000, to remain available until September 30, 1984, of which \$16,864,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding

20 USC 959.

20 USC 956.

20 USC 960

fiscal years, for which equal amounts have not previously been appropriated.

#### INSTITUTE OF MUSEUM SERVICES

20 USC 961. For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, \$10,800,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That notwithstanding section 203 of the Museum Services Act, as amended, the Institute of Museum Services hereafter shall be an entity within the National Foundation on the Arts and the Humanities: *Provided further*, That regulations of the Institute shall require (1) an appeal process for applications rejected because of technical deficiency, (2) reconsideration of applications upon receipt of materials in a timely manner if the application was rejected because material did not accompany the application, and (3) waivers of certain records under circumstances which would require such waivers.

5 USC 5316.  
20 USC 962.  
20 USC 965 note.

#### ADMINISTRATIVE PROVISIONS

20 USC 955a, 957a, 963a. None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That hereafter persons serving on the National Council on the Arts, the National Council on the Humanities, and the Museum Services Board shall continue serving until their successors are qualified for office.

#### COMMISSION OF FINE ARTS

##### SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$319,000.

#### ADVISORY COUNCIL ON HISTORIC PRESERVATION

##### SALARIES AND EXPENSES

16 USC 470b, 470c, 470f, 470h, 470i, 470j-470t. 5 USC 5316. For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 94-422, \$1,500,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

#### NATIONAL CAPITAL PLANNING COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$2,279,000.

**FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION****SALARIES AND EXPENSES**

Unexpended balances of funds available for obligation under this head in fiscal years 1982 and 1983 shall remain available for obligation until September 30, 1984.

**PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION****SALARIES AND EXPENSES**

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, \$2,350,000 for operating and administrative expenses of the Corporation. 40 USC 885.

**PUBLIC DEVELOPMENT**

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, \$8,750,000, to remain available for obligation until expended. 40 USC 885.

**FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE****PERMITTING AND ENFORCEMENT**

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, \$6,125,000, of which not to exceed \$1,000 may be used for official reception and representation expenses.

**HOLOCAUST MEMORIAL COUNCIL****HOLOCAUST MEMORIAL COUNCIL**

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, \$820,000. 36 USC 1401-1408.

**DEPARTMENT OF THE TREASURY****ENERGY SECURITY RESERVE**

Notwithstanding any other law, funds made available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees authorized by title II of the Energy Security Act, Public Law 96-294, may be used to guarantee loans up to three and one-half times the amount held in reserve. 42 USC 8801

**TITLE III—GENERAL PROVISIONS**

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use

for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

Shawnee  
National Forest,  
Ill.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

SEC. 306. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Personal  
servants,  
funding  
prohibition.

SEC. 307. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

16 USC 1132  
note, 43 USC  
1782.

SEC. 308. Except for lands described by section 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditures of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter en-

acted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning or within any lands designated by Congress as wilderness study areas, under valid existing right or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of national forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other nonsurface disturbing methods.

Permits for prospecting, seismic surveys and core samplings.

Mineral inventories.

16 USC 1133.

Oil and gas leases.

SEC. 309. None of the funds provided in this Act or by Public Law 97-100 shall be used to evaluate, consider, process or award oil, gas or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal

Mount Baker-Snoqualmie National Forest, Wash., oil or gas leases.  
95 Stat. 1391.

watershed upstream of river mile 11.7 and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

Assessments.

SEC. 310. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

Employment.

SEC. 311. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

42 USC 4651.

SEC. 312. Funds provided for land acquisition in this Act may not be used to acquire lands for more than the approved appraised value (as addressed in section 301(3) of Public Law 91-646) except for condemnations and declarations of taking, without the written approval of the Committees on Appropriations.

Contracts with  
State and local  
governments.

SEC. 313. Notwithstanding any other provisions of law, the Secretary of the Interior and Secretary of Agriculture are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction. In addition, any contracts or agreements with the jurisdictions for fire management services listed above which are previously executed shall remain valid.

SEC. 314. Any interest earned by a political subdivision of a State on sums paid to such political subdivision by such State between October 1, 1979 and September 30, 1982, from amounts paid to such State under the provisions of the last paragraph under the head "FOREST SERVICE." of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), may be expended for any public purpose as such political subdivision prescribes.

94 Stat. 2406.

SEC. 315. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects: *Provided*, That nothing herein shall be deemed to amend the Alaska National Interest Lands Conservation Act or the Alaska Native Claims Settlement Act.

16 USC 3101  
note, 43 USC  
1601 note.

SEC. 316. Except as expressly provided for by law, none of the funds appropriated by this Act shall be obligated to dispose, except by exchange, of any Federal land tract until such time as the agency responsible for administering the disposal of the tract has specifically identified the tract as no longer being needed by the Federal Government; inventoried the tract as to its public benefit values; provided opportunity for public review and discussion of the tract proposed for disposal; and provided 30 days advance notice of the tract proposed for disposal and of the plans for carrying out such disposal to the congressional delegation of the State or States in which the tract proposed for sale is located and to the appropriate congressional committees for immediate printing in the Congressional Record: *Provided*, That neither the Act of July 31, 1958, as amended (72 Stat. 438, as amended; 7 U.S.C. 1012a; 16 U.S.C. 478a) nor the Act of June 14, 1926, as amended (49 U.S.C. 869 et seq.) shall be subject to the provisions of this section.

42 USC 8322.

SEC. 317. In the case of any new electric power plant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978, to use natural gas (as that term is defined in such Act), as a primary

energy source in such power plant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric power plant using natural gas produced from the Prudhoe Bay Unit of Alaska.

SEC. 318. Section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 241), is further amended by adding the following new subsections:

"(c)(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C—a additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an 'offsite lease'). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

State of  
Colorado, offsite  
lease

"(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not more than two offsite leases may be issued under this paragraph.

Offsite leases

"(3) An offsite lease shall include no rights to any mineral deposits.

"(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

"(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

"(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values.

"(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair market value.

"(8) An offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 35 of this Act to the State within the

boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 35, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited.”; and

“(9) An offsite lease shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the offsite lease.

“(d) In recognition of the unique character of oil shale development:

“(1) In determining whether to offer or issue an offsite lease under subsection (c), the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

“(2) The Secretary may issue an offsite lease under subsection (d) after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

“(3) Before determining whether to offer an offsite lease under subsection (c), the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State’s interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor’s recommendations.”.

Publication in  
Federal  
Register.

Approved December 30, 1982.

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#### LEGISLATIVE HISTORY—H.R. 7356:

HOUSE REPORTS: No. 97-942 (Comm. on Appropriations) and No. 97-978 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 3, considered and passed House.

Dec. 13, 14, considered and passed Senate, amended.

Dec. 18, House agreed to conference report; concurred in certain Senate amendments and in others with amendments.

Dec. 19, Senate agreed to conference report; concurred in House amendments.



Public Law 97-395  
97th Congress

## An Act

To provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.

Dec. 30, 1982

[S. 823]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the United States Claims Court shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, (1) if those losses resulted from the actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate, and (2) if such children's sleepwear or such fabric, yarn, or fiber, as the case may be, at the time of its manufacture was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3-71 or FF5-74.

Tris chemical  
ban.  
Payment of  
losses.

15 USC 1261  
note.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible or reasonable for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government or other nationally known researchers tested Tris (2,3-dibromopropyl) phosphate for toxicity or other health hazards and disseminated the results of those tests.

(D) The degree of good faith demonstrated by the claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which the claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate.

(G) The degree to which the claimant, in good faith, complied with actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which the claimant, in good faith, complied with those provisions relating to exports contained in section 14 of the Federal Hazardous Substances Act and section 18 of the Consumer Product Safety Act.

15 USC 1273.

15 USC 2067.

(2) The court may not enter judgment in favor of a claimant under this Act, nor may the Attorney General agree to any settlement with a claimant under this Act, unless the claimant produces proof, to the satisfaction of the court or the Attorney General, as the case may be, that the claimant lawfully disposed of the apparel, fabric, yarn, or fiber with respect to which the claim was brought.

Determination  
of losses.

(3) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any loss suffered by any producer, converter, manufacturer, distributor, or retailer of children's sleepwear, or by any producer or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for any producer or manufacturer of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such sleepwear, fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber, less the proceeds from any such sale.

(2) The measure of losses for any producer, converter, or manufacturer of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber, plus the cost of the raw materials used for such production, converting, or manufacturing, or the cost of such fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing, less the proceeds from any such sale.

(3) The measure of losses for any distributor or retailer shall be the distributor's or retailer's purchase price for the children's sleepwear, fabric, yarn, or fiber involved, less the fair market value, if any, of such sleepwear, fabric, yarn, or fiber, and less the amount of any reimbursement received for such sleepwear, fabric, yarn, or fiber.

Transportation  
compensation.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for (A) unreimbursed costs of transportation paid for the return of the sleepwear garments, fabric, yarn, or fiber involved, and (B) unreimbursed costs of the lawful disposal of such garments, fabric, yarn, or fiber.

Class action.

(d) No claim under this Act may be brought as a class action. No claim under this Act may be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, whether or not such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person relating to the subject matter of such claim paid by the United States. The claimant shall take the necessary steps, as determined by the Attorney General, to

secure such rights in the United States in order to be entitled to the entry of a judgment by the court or payment under this Act, and the failure of the claimant to take such steps shall constitute cause to deny the entry of such judgment or such payment. The failure of the claimant to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of the enactment of this Act.

Claim  
commencement.

(g) No person shall have any claim under this Act who, on or after June 14, 1978, (1) exported from the United States any apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate which was produced, converted, manufactured, or sold for use in the United States, or (2) transferred any apparel, fabric, yarn, or fiber described in clause (1) to another person with knowledge that such apparel, fabric, yarn, or fiber would be exported from the United States.

(h) Before payment is made on any claim under this Act, the Attorney General shall notify the Administrator of the Small Business Administration of the claim. The Administrator shall, after receipt of such notification, notify the Attorney General as soon as possible of—

Claim  
notification.

(1) any unpaid loans made by the Small Business Administration under the Small Business Act, and

(2) other amounts owing to the Small Business Administration on account of loans made under the Small Business Act, for the purpose of assisting the claimant on account of losses sustained as a result of the actions taken by the United States under the Federal Hazardous Substance Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate. The Attorney General shall offset, from the amount of the payment on the claim under this Act, the amount of any such unpaid loans or other amounts owing to the Small Business Administration. The amount of any offset under this subsection shall be treated as accrued and paid to the claimant in ten equal annual installments beginning with the first year in which payment on the claim under this Act is made.

15 USC 1261  
note.

(i) Nothing in this Act shall be construed as an admission of fault or liability on behalf of the United States for any personal injury which may hereafter be claimed to arise from exposure to Tris (2,3-dibromopropyl) phosphate.

Approved December 30, 1982.

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**LEGISLATIVE HISTORY—S. 823:**

SENATE REPORT No. 97-130 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 18, considered and passed Senate.

Vol. 128 (1982): Dec. 13, considered and passed House, amended.

Dec. 14, Senate concurred in House amendment.

Public Law 97-396  
97th Congress

An Act

Authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes.

Dec. 31, 1982  
[H.R. 1952]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 101 of the Act of September 15, 1960 (commonly known as the Sikes Act, 16 U.S.C. 670a) is amended—

Conservation programs on military reservations and public lands, fiscal years 1983-1985. Appropriation authorization.

(1) by amending the second sentence thereof—

(A) by striking out “and (3)” and inserting in lieu thereof “(3)”; and

(B) by inserting immediately before the period the following: “, and (4) specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered”; and

(2) by adding at the end thereof the following new sentence:

“Cooperative plans agreed to under the authority of this section and section 102 shall not be deemed to be, nor treated as, cooperative agreements to which the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) applies.”

16 USC 670b.

SEC. 2. Section 106 of the Sikes Act (16 U.S.C. 670f) is amended—

(1) by striking out “ending September 30, 1979, September 30, 1980, and September 30, 1981,” each place it appears in subsections (b) and (c) and inserting in lieu thereof “1983, 1984, and 1985,”; and

(2) by adding at the end thereof the following new subsection:

“(d) The Secretary of Defense and the Secretary of the Interior may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this title.”

SEC. 3. The second sentence of section 201 of the Sikes Act (16 U.S.C. 670g) is amended by inserting “of fish, wildlife, and plants” immediately after “species”.

SEC. 4. Section 202 of the Sikes Act (16 U.S.C. 670h) is amended by adding at the end thereof the following new subsection:

“(d) Agreements entered into by State agencies under the authority of this section shall not be deemed to be, or treated as, cooperative agreements to which the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) applies.”

SEC. 5. Section 209 of the Sikes Act (16 U.S.C. 670o) is amended—

(1) by striking out “ending September 30, 1979, September 30, 1980, and September 30, 1981,” each place it appears in subsections (a) and (b) and inserting in lieu thereof “1983, 1984, and 1985,”; and

(2) by adding at the end thereof the following new subsections:

“(c) The Secretary of the Interior and the Secretary of Agriculture may each use any authority available to him under other laws

Contract and  
purchase  
authority.

16 USC 670h.  
41 USC 254.

relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this title.

“(d) The Secretary of the Interior and the Secretary of Agriculture may each make purchases and contracts for property and services from, or provide assistance to, the State agencies concerned, if such property, services or assistance is required to implement those projects and programs carried out on, or of benefit to, Federal lands and identified in the comprehensive plans or cooperative agreements developed under section 202, without regard to title III (other than section 304) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251-260). Contract authority provided in this section is effective only to such extent or in such amounts as are provided in appropriation Acts.”.

SEC. 6. Section 12 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2911) is amended—

(1) by striking out “, out of funds available for the administration of this Act” immediately after “shall conduct”; and

(2) by striking out “the expiration of the thirty-month period following the date of enactment of this Act,” and inserting in lieu thereof “December 31, 1984,”.

16 USC 742l.

SEC. 7. Section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 7421) is amended by adding at the end thereof the following new subsection:

“(k) **LAW ENFORCEMENT OPERATIONS.**—With respect to any undercover or other enforcement operation which is necessary for the detection and prosecution of violations of any laws administered by the United States Fish and Wildlife Service or the National Marine Fisheries Service relating to fish, wildlife, or plants, the Secretary of the Interior or the Secretary of Commerce may, notwithstanding any other provision of law—

“(1) direct the advance of funds which may be deposited in commercial banks or other financial institutions;

“(2) use appropriations for payment for information, rewards, or evidence concerning violations, without reference to any rewards to which such persons may otherwise be entitled by law, and any moneys subsequently recovered shall be reimbursed to the current appropriation; and

“(3) use appropriations to establish or acquire proprietary corporations or business entities as part of an undercover operation, operate such corporations or business entities on a commercial basis, lease space and make other necessary expenditures, and use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations: *Provided*, That at the conclusion of each such operation the proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.”.

SEC. 8. Section 4(a) of the Coastal Barrier Resources Act (Public Law 97-348) is amended by inserting “(but excluding maps T02 and T03)” immediately after “A01 through T12” and by inserting “and the maps designated T02A and T03A, dated December 8, 1982” immediately after “and dated September 30, 1982”. *Ante*, p. 1654.

Approved December 31, 1982.

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**LEGISLATIVE HISTORY—H.R. 1952:**

HOUSE REPORT No. 97-49 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 97-413 (Comm. on Environment and Public Works).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Sept. 21, considered and passed House.

Vol. 128 (1982): June 9, considered and passed Senate, amended.

Sept. 30, House agreed to certain Senate amendments and in another with an amendment.

Dec. 16, Senate concurred in House amendment with amendments.

Dec. 17, House concurred in Senate amendments.

Public Law 97-397  
97th Congress

An Act

Dec. 31, 1982  
[H.R. 5204]

To authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians.

Sycuan Band of  
Mission Indians.  
Lands held in  
trust.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is directed, upon the acquisition thereof and upon the request of the Sycuan Band of Mission Indians, to accept on behalf of the United States in trust for the Sycuan Band of Mission Indians the title to the following described land: lot 8, section 13, township 16 south, range 1 east, San Bernardino meridian, California.

Approved December 31, 1982.

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LEGISLATIVE HISTORY—H.R. 5204:

HOUSE REPORT No. 97-805 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 20, considered and passed House.  
Dec. 16, considered and passed Senate.



Public Law 97-398  
97th Congress

An Act

To amend title 18 of the United States Code to provide penalties for certain false identification related crimes

Dec. 31, 1982  
[H.R. 6946]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "False Identification Crime Control Act of 1982".

SEC. 2. Chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

False  
Identification  
Crime Control  
Act of 1982  
18 USC 1001  
note.  
18 USC 1028.

**"§ 1028. Fraud and related activity in connection with identification documents**

"(a) Whoever, in a circumstance described in subsection (c) of this section—

"(1) knowingly and without lawful authority produces an identification document or a false identification document;

"(2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;

"(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

"(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States; or

"(5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

"(6) possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority knowing that such document was stolen or produced without authority;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under subsection (a) of this section is—

Penalties.

"(1) a fine of not more than \$25,000 or imprisonment for not more than five years, or both, if the offense is—

"(A) the production or transfer of an identification document or false identification document that is or appears to be—

"(i) an identification document issued by or under the authority of the United States; or

"(ii) a birth certificate, or a driver's license or personal identification card;

“(B) the production or transfer of more than five identification documents or false identification documents; or

“(C) an offense under paragraph (5) of such subsection;

“(2) a fine of not more than \$15,000 or imprisonment for not more than three years, or both, if the offense is—

“(A) any other production or transfer of an identification document or false identification document; or

“(B) an offense under paragraph (3) of such subsection;

and

“(3) a fine of not more than \$5,000 or imprisonment for not more than one year, or both, in any other case.

“(c) The circumstance referred to in subsection (a) of this section is that—

“(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

“(2) the offense is an offense under subsection (a)(4) of this section; or

“(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

Definitions.

“(d) As used in this section—

“(1) the term ‘identification document’ means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

“(2) the term ‘produce’ includes alter, authenticate, or assemble;

“(3) the term ‘document-making implement’ means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

“(4) the term ‘personal identification card’ means an identification document issued by a State or local government solely for the purpose of identification; and

“(5) the term ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

“(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).”

Sec. 3. The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"1028. Fraud and related activity in connection with identification documents."

**SEC. 4.** (a) Chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following:

**"§ 1738. Mailing private identification documents without a disclaimer** 18 USC 1738.

**"(a) Whoever, being in the business of furnishing identification documents for valuable consideration, and in the furtherance of that business, uses the mails for the mailing, carriage in the mails, or delivery of, or causes to be transported in interstate or foreign commerce, any identification document—** Penalties.

**"(1) which bears a birth date or age purported to be that of the person named in such identification document; and**

**"(2) knowing that such document fails to carry diagonally printed clearly and indelibly on both the front and back "NOT A GOVERNMENT DOCUMENT" in capital letters in not less than twelve point type;**

**shall be fined not more than \$1,000, imprisoned not more than one year, or both.**

**"(b) For purposes of this section the term 'identification document' means a document which is of a type intended or commonly accepted for the purpose of identification of individuals and which is not issued by or under the authority of a government."** "Identification document."

(b) The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following new item:

**"1738. Mailing private identification documents without a disclaimer."**

**SEC. 5.** Section 3001(a) of title 39, United States Code, is amended by striking out "or 1718" and inserting in lieu thereof ", 1718, or 1738".

Approved December 31, 1982.

#### LEGISLATIVE HISTORY—H.R. 6946:

HOUSE REPORTS: No. 97-802 (Comm. on the Judiciary) and No. 97-975 (Comm. of Conference)

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Dec. 17, House agreed to conference report.

Dec. 19, Senate agreed to conference report.

Public Law 97-399  
97th Congress

An Act

Dec. 31, 1982  
[H.R. 7155]

To settle certain Indian land claims within the State of Florida, and for other purposes.

Florida Indian  
Land Claims  
Settlement Act  
of 1982.  
25 USC 1741  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Florida Indian Land Claims Settlement Act of 1982".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

25 USC 1741.

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Indian Tribe which involves certain lands within the State of Florida;

(2) the pendency of such lawsuit may result in economic hardships for residents of the State of Florida by clouding the titles to lands in the State, including lands not now involved in the lawsuits;

(3) the pendency of such lawsuit also has clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of South Florida;

(4) the State of Florida and the Miccosukee Indian Tribe have executed agreements for the purposes of resolving tribal land claims and settling such lawsuit, which agreements require implementing legislation by the Congress of the United States and the Legislature of the State of Florida; and

(5) Congress shares with the parties to such agreements a desire to settle such Indian claims in the State of Florida without additional cost to the United States.

DEFINITIONS

25 USC 1742.

SEC. 3. For purposes of this Act—

(1) The term "Miccosukee Tribe" means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(2) The term "State of Florida" means the State of Florida, its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions, and the South Florida Water Management District.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term “lands or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) The term “lawsuit” means the action in the United States District Court for the Southern District of Florida, entitled Miccosukee Tribe of Indians of Florida against State of Florida, et al., Case No. 79-253-CIV-JWK.

(6) The term “Lease Agreement” means that perpetual lease granted by the State of Florida to the Miccosukee Tribe, involving a specifically described area in South Florida, title to which is held by the State of Florida and in which the Miccosukee Tribe is granted certain express rights and interests.

(7) The term “settlement funds” means those amounts of money which the State of Florida has agreed to pay to the Miccosukee Tribe under the Settlement Agreement in partial consideration for the settlement of the lawsuit and the extinguishment of rights to all potential or unsettled claims which the Miccosukee Tribe may have to lands or natural resources in the State of Florida.

(8) The term “Settlement Agreement” means those documents entitled “Settlement Agreement between the Miccosukee Tribe and the State of Florida” executed on April 16, 1982, by representatives of the State of Florida and representatives of the Miccosukee Tribe and filed with the secretary of state of the State of Florida which incorporate the Lease Agreement described in paragraph (6) of this section.

(9) The term “transfer” includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of lands or natural resources.

#### FINDINGS BY THE SECRETARY

SEC. 4. Section 5 of this Act shall not take effect until the Secretary finds that the following events have occurred:

Effective date  
restriction.  
25 USC 1743.

(1) the State of Florida has enacted legislation appropriating sufficient money to pay, and in fact has paid, the settlement funds to the Miccosukee Tribe;

(2) the State of Florida and the Miccosukee Tribe have executed the Lease Agreement; and

(3) the State of Florida has enacted appropriate legislation to carry out its commitments under paragraph 1b of the Settlement Agreement between the State of Florida and the Miccosukee Tribe and has given the waiver specified in paragraph 4d of such Agreement.

#### APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

SEC. 5. (a) If the Secretary finds that the State of Florida has satisfied the conditions set forth in section 4 of this Act, he shall publish such findings and the Settlement Agreement in the Federal Register, and upon such publication—

Publication in  
Federal  
Register.  
25 USC 1744.

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement between the State of Florida and the Miccosukee Tribe shall be of full force and effect on the terms and conditions therein stated; and

(2) the transfers, waivers, releases, relinquishments, and other commitments validated by paragraph (1) of this subsection and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Act of July 22, 1790 (1 Stat. 137) and any amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfers effective as of the date of such transfers.

Extinguishment  
of claims.

(b)(1) All claims to lands within the State of Florida based upon aboriginal title by the Miccosukee Tribe, or any predecessor or successor in interest, are hereby extinguished, and any transfer of lands or natural resources located anywhere within the State of Florida, including but not limited to transfers pursuant to the statute or treaty of or with any State or the United States, by, from, or on behalf of the Miccosukee Tribe, or any predecessor or successor in interest, shall be deemed to be in full force and effect: *Provided, however,* That nothing herein shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 3c of the Settlement Agreement between the State of Florida and the Miccosukee Tribe.

(2) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Miccosukee Tribe, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including but not limited to claims for trespass damages or claims for use and occupancy, shall be regarded as extinguished as of the date of the transfer.

(3) Notwithstanding any other provision of this subsection, nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State of Florida by any individual Indian—

(A) which is based on use and occupancy, or

(B) which was acquired under Federal or State law, and which is not derived from or through the Miccosukee Tribe, or its predecessor or predecessors in interest.

#### SPECIAL PROVISIONS FOR MICCOSUKEE TRIBE

25 USC 1745.

SEC. 6. (a) The leasehold interest granted the Miccosukee Tribe under the Lease Agreement shall be exempt from all State and local taxes.

(b) The lands leased to the Miccosukee Tribe pursuant to the Lease Agreement shall be treated as if such lands constituted a federally recognized Indian reservation solely for purposes of determining the eligibility of the Miccosukee Tribe and its members for

any Federal health, education, employment, economic assistance, revenue sharing, law enforcement over Indians, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their status as Indians and of their residence on an Indian reservation.

(c) The State of Florida, through exercise of the power of eminent domain, may take or diminish any interest granted to the Miccosukee Tribe under the Lease Agreement only for a public purpose and upon payment of just compensation, but such taking or diminution shall not require the approval of Congress or any executive officer of the United States.

(d) Nothing in this Act or in any grant of leasehold rights by the State of Florida under the Lease Agreement shall affect or otherwise impair in any adverse manner any benefits received by the State of Florida under the Act of September 2, 1937 (16 U.S.C. 669 et seq.), or the Act of August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 7. Nothing in this Act shall grant to the Miccosukee Tribe any greater rights or interests in the leased area other than those expressly set forth in the Lease Agreement, and, notwithstanding any other provision of this Act, nothing in this Act shall diminish, modify, or otherwise affect the extent of the civil and criminal jurisdiction of the State of Florida in the leased area.

25 USC 1746.

SEC. 8. (a) The Secretary is authorized and directed to accept the transfer to the United States, to be held in trust for the use and benefit of the Miccosukee Tribe of Indians of Florida, of the lands authorized to be conveyed to the Miccosukee Tribe by section 285.061, Florida Statutes, and the lands described in Dedication Deed No. 23228 from the Trustees of the Internal Improvement Trust Fund subject to the provisions of section 285.061, Florida Statutes, and of this section.

Land transfer  
authorization.  
25 USC 1747.

(b)(1) Notwithstanding the conveyance of any lands by the State of Florida to the United States in trust for the Miccosukee Tribe of Indians of Florida, the assumption of jurisdiction in favor of the State of Florida contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, shall continue in full force and effect on such lands unless the State shall retrocede such civil or criminal jurisdiction in whole or in part.

67 Stat 590.

(2)(A) The laws of Florida relating to alcoholic beverages (chapters 561, 562, 563, 564, and 565, Florida Statutes), gambling (chapter 849, Florida Statutes), sale of cigarettes (chapter 210, Florida Statutes), and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State and the State shall have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(B) Nothing in subparagraph (A) shall permit the exercise of jurisdiction by the State of Florida as to any matter to which section 1162(b) of title 18 or section 1360(b) of title 28, United States Code, applies.

(c)(1) Any transfer of lands under this section shall be subject to all existing leases, easements, and rights-of-way, and all the rights, easements, and reservations in favor of the Central and Southern Florida Flood Control District (now the South Florida Water Management District) and shall not increase, diminish, modify, or other-

Water rights      wise affect the extent to which chapter 373, Florida Statutes, and its successor laws, have force and effect within such lands.  
(2) Any transfer of lands under this section shall not confer upon the Miccosukee Tribe, or upon the lands within the reservation, any additional water rights.

#### LIMITATIONS OF ACTIONS

25 USC 1748.      SEC. 9. Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within one hundred and eighty days after the date of enactment of this Act. An action to contest the constitutionality of this Act may only be brought in the United States District Court for the Southern District of Florida.

#### REVOCATION OF SETTLEMENT

25 USC 1749.      SEC. 10. In the event the Settlement Agreement between the Miccosukee Tribe and the State of Florida is ever invalidated—  
(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement shall no longer be of any force or effect,  
(2) section 5 of this Act shall be inapplicable to the lands, interests in lands, or natural resources of the Miccosukee Tribe and its members as if never enacted, and  
(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the Miccosukee Tribe otherwise effected by section 5 shall be void ab initio.

Approved December 31, 1982.

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#### LEGISLATIVE HISTORY—H.R. 7155:

HOUSE REPORT No. 97-938 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 6, considered and passed House.  
Dec. 16, considered and passed Senate.



Public Law 97-400  
97th Congress

An Act

To designate the Lakeview Lake project, Mountain Creek, Texas, as the “Joe Pool Lake”.

Dec. 31, 1982

[H.R. 7377]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Lakeview Lake project, Mountain Creek, Texas, authorized by the River and Harbor Act of 1965, shall hereafter be known and designated as “Joe Pool Lake”. Any reference in any law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the “Joe Pool Lake”.

Joe Pool Lake.  
Designation.

79 Stat 1089.

Approved December 31, 1982.

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LEGISLATIVE HISTORY—H.R. 7377:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 7, considered and passed House.

Dec. 19, considered and passed Senate.

Public Law 97-401  
97th Congress

An Act

Dec. 31, 1982  
[S. 187]

To authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior conveyances.

Miles City, Mont.  
Lands,  
conveyances.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall convey by patent to the city of Miles City, Montana (hereafter, referred to as the "city"), all right, title, and interest, except for those interests described in subsection (b) of this section, of the United States in and to the following lands in Custer County, Montana, in range 47 east of the principal meridian, Montana: In township 8 north, lots 9, 17, 21, 28, 31, and 32 in section 32 and in townships 7 and 8 north, tract Q and tract S.

(b) Any patent issued pursuant to subsection (a) of this section shall contain a reservation to the United States of all gas, oil, coal, and other minerals that may be found in such lands, and the right to prospect for, mine, and remove such minerals, and that patents shall also contain any other reservations required by law.

(c) Any patent issued pursuant to subsection (a) of this section shall provide that if the land is transferred or conveyed by the city, the proceeds of such sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

SEC. 2. (a) The Secretary shall take such actions as are necessary to convey to the city the reversionary interests of the United States contained in the patents which conveyed to the city of Miles City, Montana, the lands described in subsection (b) of this section. Such reversionary interests arise when the patentee/grantee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee/grantee. All documents of conveyance issued under this subsection shall provide that if the land is conveyed by the city, the proceeds of sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

(b) The lands referred to in subsection (a) of this section are the following tracts in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tracts A and B (conveyed by patent numbered 1,021,511), tracts E and F (conveyed by patent numbered 1,122,295), tract G (conveyed by patent numbered 1,173,770), tract K (conveyed by patent numbered 1,173,768), tract L (conveyed by patent numbered 1,173,769), tract M (conveyed by patent numbered 1,178,764), tract P (conveyed by patent numbered 1,219,817), and tract D (conveyed by the grant made by the Act of July 30, 1890 (26 Stat. 292), lots 16 and 17, section 33 (conveyed by patent numbered 25-81-0094).

SEC. 3. (a) The Secretary shall take such actions as are necessary to convey to the holder of the patent the reversionary interests of the United States contained in the patents which conveyed to the county of Custer, Montana, the lands described in subsection (b) of

this section. Such reversionary interests arise when the patentee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee. All documents of conveyance issued under this subsection shall provide that if the land is conveyed by the patentee, the proceeds of such sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

(b) The lands referred to in subsection (a) are the following parcels in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tract C (conveyed by patent numbered 1,023,689) and tract T (conveyed by patent numbered 25-76-0099), and in township 8 north, lot 20 in section 33 (conveyed by patent numbered 25-76-0100).

**SEC. 4.** (a) Notwithstanding any other provision of law, if the city or any other patentee or grantee transfers any lands described in this Act, such transfer shall be at fair market value for the land and improvements thereon.

Fair market  
value.

(b) Proceeds from the sale of the land, excluding the value of any improvements on the land and less any sums paid to the United States at the time of original conveyance out of Federal ownership, shall be deposited in the general fund of the Treasury of the United States, to be distributed as follows: At the end of each Federal fiscal year, the United States shall return 5 per centum of the net receipts collected in that fiscal year from the sale of lands described in this Act to the State of Montana, and 10 per centum of such receipts to the county or the city in which the lands are located in amounts proportional to the receipts generated from the sale of such land in each county or city during the fiscal year.

Sale proceeds,  
distribution.

**SEC. 5.** All documents of conveyance issued pursuant to this Act shall be subject to valid existing rights.

Approved December 31, 1982.

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**LEGISLATIVE HISTORY—S. 187:**

HOUSE REPORT No. 97-904 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-181 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Sept. 22, considered and passed Senate.

Vol. 128 (1982). Sept. 30, considered and passed House, amended.

Dec. 17, Senate concurred in House amendment.

Public Law 97-402  
97th Congress

## An Act

Dec. 31, 1982  
[S. 1340]Indians.  
Clallam  
judgment funds.

To provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the funds appropriated by the Act of May 4, 1977 (91 Stat. 61), in satisfaction of a judgment awarded in favor of the Clallam Tribe of Indians of the State of Washington in Indian Claims Commission docket numbered 134, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter referred to as the "Secretary"), in shares of one-third to each, as agreed to by the adoption of tribal resolutions cited in sections 2, 3, and 4 of this Act, among the Port Gamble Indian Community, the Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians.

SEC. 2. The share of the funds apportioned to the Port Gamble Indian Community under the first section of this Act shall be used as provided in tribal resolution numbered 79-A1, dated January 9, 1979, requiring that 80 per centum of such share be used in a revenue supplement fund for community projects and the balance in an investment program.

SEC. 3. The share of the funds apportioned to the Lower Elwha Tribal Community under the first section of this Act shall be used as provided by tribal resolution numbered 8B-78, dated August 27, 1978, requiring that up to 80 per centum of such share be used in a land acquisition program that includes the payment of an outstanding loan on land purchased by the community and the balance in economic development projects for the benefit of all tribal members.

SEC. 4. The share of the funds apportioned to the Jamestown Band of Clallam Indians under the first section of this Act shall be used as provided by resolution numbered 78-1, dated October 1, 1978, requiring that up to 50 per centum of such share be used in a land acquisition program and the balance in a business development program.

SEC. 5. (a) The shares of funds apportioned under the first section of this Act shall be advanced to the respective groups within 60 days of this Act: *Provided*, That in the case of the Jamestown Band, a formal organization has been approved by the Secretary. At the time the funds are advanced, the Secretary shall account to the respective groups for all investments made and income received since May 4, 1977.

(b) Except as otherwise provided in this section, funds held and administered by the respective groups which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided*, That such funds may be invested or expended by the respective

groups in accordance with their plans without requirement of prior approval by the Secretary.

(c) Upon advancement of the funds to the respective groups the Secretary shall have no further trust responsibility for the investment, supervision, administration or expenditure of such funds, and the United States shall be exempt from any liability for such investment, supervision, administration or expenditure of such funds.

SEC. 6. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

42 USC 1305.

Approved December 31, 1982.

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LEGISLATIVE HISTORY—S. 1340:

SENATE REPORT No. 97-654 (Comm. on Indian Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 3, considered and passed Senate.  
Dec. 17, considered and passed House.

Public Law 97-403  
97th Congress

An Act

Dec. 31, 1982  
[S. 1735]

To provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

Pembina  
Chippewa  
Indians.  
Distribution and  
use of funds.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of the Chippewa Indians of Montana, and the nonmember Pembina descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), or 6(1) or 7(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1),

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1),

(4) the number of members of the Little Shell Band of the Chippewa Indians of Montana as described in section 6(1) plus

(5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).

Turtle Mountain  
Band of  
Chippewa  
Indians.

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Band of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) the administration of such band, or
- (B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

Chippewa Cree  
Tribe of Rocky  
Boy's  
Reservation.

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

- (A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and
- (B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) economic programs,
- (B) recreation, or
- (C) tribal administration.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

Minnesota  
Chippewa Tribe.

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who—

- (A) are designated as Pembina Band Chippewas on the basis of tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) a joint investment and use program for the bands affiliated with the reservation, or
- (B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

Little Shell Tribe  
of Chippewa  
Indians of  
Montana.

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of the enactment of this Act and who would meet the enrollment criteria under section 7(a) of this Act if they were not enrolled members of the Little Shell Tribe of Chippewa Indians of Montana.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the

Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs:

*Provided*, That the Secretary shall act on the tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the 20 per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under section 6(1): *Provided further*, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

Report to  
Congress.

Ancestry roll.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

- (1) are of at least one-quarter Pembina Chippewa blood,
- (2) are citizens of the United States,
- (3) are living on the date of the enactment of this Act,
- (4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana, and
- (5) are—

(A) enrolled, or the descendants of a lineal ancestor enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis roll of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud Roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

Regulations.

(b) The Secretary shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).



**SEC. 8. (a)** Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult. Per capita payments.

**(b)** Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

**(c)** Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

**SEC. 9.** None of the funds distributed per capita or made available under this Act for programs shall be subject to Federal, State, or local income taxes or be considered income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or benefits to any person or household participating in any Federal, State, or local programs. Tax exemption.

Approved December 31, 1982.

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LEGISLATIVE HISTORY—S. 1735 (H.R. 6416):

HOUSE REPORT No. 97-937 accompanying H.R. 6416 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-655 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 3, considered and passed Senate.

Dec. 6, H.R. 6416 considered and passed House; S. 1735 amended, passed in lieu.

Dec. 16, Senate concurred in House amendment

Public Law 97-404  
97th Congress

An Act

Dec. 31, 1982

[S. 3113]

To make certain minor and technical amendments to the Job Training Partnership Act.

Job Training  
Partnership Act,  
amendments.  
*Ante*, p. 1330.

*Ante*, p. 1333.

*Ante*, p. 1336.

*Ante*, p. 1339.

*Ante*, p. 1342.

*Ante*, p. 1343.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) section 103(c)(3) of the Job Training Partnership Act (hereafter in this Act referred to as the "Act") is amended by striking out "104" and inserting in lieu thereof "101".

(b) Section 106(d)(3) of the Act is amended by striking out "ex-offenders" and inserting in lieu thereof "offenders".

(c) Section 108(b)(2)(A)(iv) of the Act is amended by striking out "projects" and inserting in lieu thereof "payments".

(d) Section 122(a)(3)(C) of the Act is amended by striking out "executive officers" and inserting in lieu thereof "elected officials".

(e) Section 125(c) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(f)(1) Section 141(c) of the Act is amended by inserting after "unless" the following: "the Secretary determines that".

(2) Section 141(g) of the Act is amended—

(A) by striking out the word "which"; and

(B) by striking out the word "title" and inserting in lieu thereof the word "Act".

*Ante*, p. 1345.

(g) Section 142(b) of the Act is amended by inserting after "aid" the following: "furnished under any Federal or federally assisted program based on need".

*Ante*, p. 1345.

(h) Section 143(d) of the Act is amended by striking out "1921" and inserting in lieu thereof "1931".

*Ante*, p. 1354.

(i) Section 181(f)(5) of the Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

*Ante*, p. 1360.

SEC. 2. (a) Section 203(a)(1) of the Act is amended by striking out "participate" and inserting in lieu thereof "participate".

(b) Section 203(b)(2) of the Act is amended by striking out "expend" and inserting in lieu thereof "be expended".

*Ante*, p. 1367.

SEC. 3. Section 308 of the Act is amended by—

(1) striking out ", as described in section 121," and inserting in lieu thereof "with"; and

(2) inserting before the period at the end thereof the following: "; in accordance with the provisions of section 121".

*Ante*, p. 1368.

SEC. 4. (a) Section 401(h)(2) of the Act is amended by striking out "103" and inserting in lieu thereof "106".

*Ante*, p. 1369.

(b)(1) Section 402(a)(2) of the Act is amended by inserting "the special nature of" after "because of".

(2) Section 402(c)(4) of the Act is amended by striking out "103" and inserting in lieu thereof "106".

*Ante*, p. 1383.

(c) Section 454(b) of the Act is amended by striking out "title II" and inserting in lieu thereof "title IV".

(d)(1) Section 463(a)(1) of the Act is amended by inserting after “processing systems” the following: “related to labor market information”. *Ante*, p. 1384.

(2) Section 463(a)(2) of the Act is amended by inserting after “coding measures” the following: “related to labor market information”.

(e)(1) Section 464(a)(1) of the Act is amended by inserting “for each fiscal year” after “part”. *Ante*, p. 1385.

(2) Section 464(b)(7) of the Act is amended by striking out “providing” and inserting in lieu thereof “provide”.

SEC. 5. Section 13 of the Wagner-Peyser Act, as added by section 501(h) of the Act is amended by inserting “(1)” after “(b)” and by adding at the end thereof the following new paragraph: *Ante*, p. 1397.

“(2) No funds paid under this Act may be used by any State for advertising in newspapers for high paying jobs unless such State submits an annual report to the Secretary beginning in December 1984 concerning such advertising and the justifications therefor, and the justification may include that such jobs are part of a State industrial development effort.”. *Report*.

SEC. 6. The amendments made by this Act shall not be construed as affecting the term “originally enacted” as applied to the Job Training Partnership Act in section 402(a)(8)(A)(v) of the Social Security Act as amended by section 503(a) of the Act. *Ante*, p. 1398.

Approved December 31, 1982.

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LEGISLATIVE HISTORY—S 3113:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed Senate  
Dec. 18, considered and passed House.

Public Law 97-405  
97th Congress

An Act

Jan. 3, 1983

[S. 625]

Voyageurs  
National Park,  
Minn.  
Boundary  
revision.  
84 Stat. 1970.  
16 USC 160.  
16 USC 160a-1.  
16 USC 160a-1.

To revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes", approved January 8, 1971 (84 Stat. 1971), is amended—

(1) in section 102 by striking out "The" after "SEC. 102." and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, the";

(2) by inserting after section 102(a), as redesignated by paragraph (1), the following new subsection:

"(b)(1) In addition to such revisions as the Secretary may make in the boundaries of the park from time to time pursuant to other provisions of law, the Secretary may, according to the provisions of subsection (a)—

"(A) delete approximately 782 acres in the Neil Point area of the park;

"(B) add approximately 180 acres in the Black Bay Narrows areas of the park;

"(C) add approximately 18.45 acres owned by the State of Minnesota at the Kabetogama Forestry Station;

"(D) add approximately 120 acres owned by the State of Minnesota, being a strip of land through that portion of section 1, township 68 north, range 20 west, fourth principal meridian, which is parallel to and 400 feet on both sides of the unimproved road extending northward from the Ash River Trail as such road crosses each section; and

"(E) subject to the provisions of paragraph (2), delete approximately 1,000 acres at Black Bay and convey such lands to the State of Minnesota.

Public  
inspection.

All of the aforementioned boundary changes if accomplished shall be accomplished such that the boundary of the park shall conform to that generally depicted on the drawing entitled "Boundary, Voyageurs National Park, United States Department of the Interior, National Park Service", numbered 172-80, 008-MWR, and dated November 1981, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Land  
conveyances,  
conditions.

"(2) The Secretary may not delete or convey the lands referred to in paragraph (1)(E) unless, prior to or simultaneously with such deletion or conveyance and in consideration of such conveyance, the State of Minnesota—

"(A) tenders a conveyance of the lands described in paragraph (1) (C) and (D) to the United States by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement: *Provided*, That if the interest

conveyed is a lease or easement, the State of Minnesota shall substitute therefore a transfer of all right, title, and interest in the land by June 30, 1987: *Provided further*, That if the State does not transfer all right, title, and interest in such lands by June 30, 1987, the land described in paragraph 1(E) shall revert to the United States for administration by the Secretary as part of the park; and

Land reversion  
to U.S.

“(B) enters into a recordable agreement satisfactory to the Secretary which provides that—

“(i) the State has established a wildlife management area in the area authorized to be deleted and conveyed to the State by paragraph 1(E);

“(ii) the State has prepared a plan acceptable to the Secretary to manage all the waters of and State lands riparian to Black Bay (including all of the State-owned lands and waters of Rainy Lake) to preserve the natural resources of the area so as to complement to the fullest extent possible the purposes for which the park was established;

“(iii) the State shall not transfer any right, title, or interest in, or control over, any land described in paragraph 1(E) to any person other than the Secretary; and

“(iv) the State shall permit access by the Secretary at reasonable times to the land described in paragraph 1(E).

“(3) If at any time the State fails to comply with the material requirements of the agreement referred to in paragraph 2(B), all right, title, and interest in the land described in paragraph 1(E) shall revert to the United States for administration by the Secretary as part of the park. Such reversion shall take effect upon the delivery by the Secretary of notice to the State respecting such failure to comply without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States Court of Appeals for the appropriate circuit within ninety days following such notice. In any such action the court may issue such orders as are appropriate to carry out the requirements of this subsection.”;

Agreement  
requirements,  
State  
noncompliance.

Judicial review

(3) by adding after the last sentence of section 301(b) the following new sentence: “The President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or unsuitability as wilderness of any area within the park.”; and

Presidential  
recommendations  
to Congress.  
16 USC 160f.

(4) in section 401—

(A) by inserting “(a)” after “SEC. 401.”;

(B) by striking out “\$26,014,000” and inserting in lieu thereof “\$38,314,000”; and

Appropriations  
authorization.  
16 USC 160k.

(C) by adding at the end the following new subsections:

“(b) The Secretary shall, in cooperation with other Federal, State, and local governmental entities and private entities experienced in the fields of outdoor recreation and visitor services, develop and implement a comprehensive plan for visitor use and overnight visitor facilities for the park. The plan shall set forth methods of achieving an appropriate level and type of visitation in order that the resources of the park and its environs may be interpreted for, and used and enjoyed by, the public in a manner consistent with the purposes for which the park was established. Such plan may include appropriate informational and educational messages and materials.

Visitor use and  
facilities plan.

In the development and implementation of such plan the Secretary may expend funds donated or appropriated for the purposes of this subsection. Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed \$250,000, to remain available until expended.

Study, report to Congress.

“(c) The Secretary is directed to study existing road access to the park and to report to Congress on the impact of park-related use of those roads and to report specific recommendations on improvements necessary to insure adequate road access to the park. The Secretary is directed to report, within one year of the date of enactment of the Act which appropriates funds authorized under this subsection, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate. Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed \$75,000.

16 USC 4601-9.

“(d) For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceilings on appropriations established by this section shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

Approved January 3, 1983.

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#### LEGISLATIVE HISTORY—S. 625 (H.R. 846):

HOUSE REPORT No. 97-871 accompanying H.R. 846 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-423 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 10, considered and passed Senate.

Sept. 29, H.R. 846 considered and passed House; proceedings vacated and S. 625, amended, passed in lieu.

Oct. 1, Senate concurred in House amendments with amendments.

Dec. 14, House concurred in certain Senate amendments and in another with an amendment.

Dec. 16, Senate agreed to House amendment.

Public Law 97-406  
97th Congress

An Act

Entitled the "Educational Mining Act of 1982".

Jan. 3, 1983

[S. 1501]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of Alaska, all right, title, and interest of the United States in the following described land comprising approximately seventy-six acres:

Educational  
Mining Act of  
1982.

FAIRBANKS MERIDIAN, ALASKA

Township 2 North, Range 1 East

Section 8:

East half southeast quarter southwest quarter northeast quarter southeast quarter,

North half southwest quarter southeast quarter northeast quarter southeast quarter,

South half south half southeast quarter northeast quarter southeast quarter,

East half northeast quarter northwest quarter southeast quarter southeast quarter,

Northeast quarter southeast quarter southeast quarter,

North half southeast quarter southeast quarter southeast quarter,

North half south half southeast quarter southeast quarter southeast quarter,

South half southeast quarter southeast quarter southeast quarter southeast quarter,

Section 9:

West half southwest quarter southwest quarter,

South half southwest quarter northwest quarter northeast quarter southwest quarter southwest quarter,

Southwest quarter northeast quarter southwest quarter southwest quarter, southeast quarter southwest quarter southwest quarter,

West half west half southwest quarter southeast quarter southeast quarter southwest quarter,

Southwest quarter southeast quarter southwest quarter,

South half southwest quarter northwest quarter southeast quarter southwest quarter.

SEC. 2. Conveyance under this Act shall be made only (a) upon the Secretary being satisfied that no valid mining claims exist on the described lands; and (b) upon the condition that the described land shall be held and used by the University of Alaska and shall not be conveyed by the university.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of the approval of this Act.

SEC. 4. The Secretary may at his discretion require that he be provided a perimeter survey of the described lands. All costs of obtaining such survey shall be borne by the university.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S. 1501:

HOUSE REPORT No. 97-952 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-370 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
    May 10, considered and passed Senate  
    Dec. 14, considered and passed House, amended.  
    Dec. 19, Senate disagreed to House amendment.  
    Dec. 20, House receded from its amendment.



Public Law 97-407  
97th Congress

An Act

To designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area", as a component of the National Wilderness Preservation System.

Jan. 3, 1983  
[S. 1965]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

- (1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and
- (2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Missouri and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

- (1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Missouri such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Missouri;

Paddy Creek  
Wilderness Act  
of 1981.  
16 USC 1132  
note.  
16 USC 1131  
note.

Map and legal  
description,  
filing with  
congressional  
committees.

Effective date.  
  
16 USC 1131  
note.

Review and  
evaluation.

16 USC 1600  
note.  
16 USC 1600  
note.

16 USC 1605.  
16 USC 1600  
note.  
Review and  
evaluation.

(2) with respect to the National Forest System lands in the State of Missouri which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, or designated as wilderness by this Act or previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Missouri reviewed in such final environmental statement and not designated as wilderness by this Act or previous Acts of Congress or remaining in further planning upon enactment of this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Missouri for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S. 1965:

HOUSE REPORT No. 97-949 Pt. 1 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-554 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate.  
Dec. 14, considered in House.  
Dec. 15, failed of passage in House.  
Dec. 16, considered and passed House, amended.  
Dec. 19, Senate agreed to House amendments.

Public Law 97-408  
97th Congress

An Act

To provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboiné Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes.

Jan. 3, 1983

[S. 1986]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the funds appropriated in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), on January 23, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboiné Tribe of the Fort Belknap Indian Community in dockets numbered 250-A and 279-C of the United States Court of Claims; on July 16, 1981, in satisfaction of a judgment awarded to the Gros Ventre Tribe of Fort Belknap Indian Community in docket numbered 309-74 of the United States Court of Claims; and 26.8 per centum of the funds appropriated on June 30, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in docket numbered 649-80L of the United States Court of Claims, less attorney fees and litigation expenses, but including all accrued interest and investment income, shall be distributed and used as herein provided.

Indians.  
Judgment funds,  
distribution to  
certain tribes.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation, Montana, in docket numbered 279-C, in an original amount of \$400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for governmental operations and social and economic programs.

Blackfeet Tribe  
of Montana.

SEC. 3. The funds appropriated to the Assiniboiné Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 250-A, in the original amount of \$2,170,013 shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right:

Assiniboiné  
Tribe of the Fort  
Belknap Indian  
Community,  
Montana.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboiné members of the Fort Belknap Indian Community and born on or prior to, and living on, the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboiné Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and economic programs. Such programs may include, but are not limited to, land acquisitions and the development of local reservation projects.

Gros Ventre  
Tribe of the Fort  
Belknap Indian  
Community,  
Montana.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 279-C, in the original amount of \$2,094,987; in docket numbered 309-74, in the original amount of \$77,780.13; and in docket numbered 649-80L, in the initial amount of 26.8 per centum of \$29,404,951.94, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to, and living on, the date of enactment of this Act who are (1) duly enrolled members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one-quarter degree Gros Ventre blood or (2) who are enrolled in the Fort Belknap Indian Community and who are at least one-fourth degree Gros Ventre and Assiniboiné blood, but not less than one-eighth degree Gros Ventre blood, and are not eligible to share under section 3 of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and economic programs. Such programs may include, but are not limited to, land acquisition and the development of local reservation projects.

(c) Nothing in this section is deemed in anyway to increase, diminish, or in anyway affect the right of the Gros Ventre Tribe to determine its membership.

Per capita  
payments.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interests of such individuals.

Tax exemption.

SEC. 6. None of the funds distributed per capita or held in trust under provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 7. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

Papago Tribe of  
Arizona.

SEC. 8. (a) Notwithstanding any other law, the funds appropriated by the Act of September 30, 1976 (90 Stat. 1416), in satisfaction of a judgment awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, less attorney fees and litigation expenses, but including all accrued interest or investment income, shall be used and distributed as provided in this Act.

(b) Fifty per centum of such funds shall be held in trust by the Secretary for the benefit of the Papago Tribe and shall be administered or invested by the Secretary for the best interest of the tribe under existing law. Such funds shall be held and used as follows:

(1) All interest or investment income accruing to said funds shall be available, at the request of the tribe on a quarterly basis, for use by the Papago Tribal Council on an annual budgetary basis for expenditures of the tribal government, and for health, education, and social services, capital improvements and economic development programs of the tribe and of the district and communities of the tribe's reservation. Any interest or investment income accrued during the year and remaining available at the end of the tribe's fiscal year shall, at the request of the tribe, be added to the principal amount.

(2) A portion of such funds, principal and accrued interest or investment income, but not in the aggregate a sum in excess of 20 per centum of the initial principal amount, shall be available upon the request to the tribe for capital improvement or major economic development activities of benefit to the tribe as a whole pursuant to a plan or plans developed by the Papago Tribal Council and approved by the Secretary.

(3) Sufficient funds from the principal amount of such funds shall be available to the Secretary to insure that the per capita distribution of \$1,000 to each enrollee is completed as provided in subsection (c) to the extent that there are not sufficient funds in the amount set aside for per capita distribution to make such payment.

(c) Fifty per centum of such funds shall be held and administered by the Secretary for per capita distribution and such sums, together with any accrued interest or investment income, shall be distributed and used as follows:

(1) The membership roll of the tribe shall be brought current to the date of enactment of this Act pursuant to the criteria specified in the tribal constitution and the provisions of the Papago Enrollment Ordinance, ordinance numbered 5-81, and the Papago Enrollment Manual, or other ordinances and regulations adopted by the Papago Tribal Council and approved by the Secretary: *Provided*, That no application for membership on the roll may be filed or received by the tribe for purposes of per capita payments under this section one hundred and eighty days after the date of enactment of this Act.

Membership  
roll.

(2) Sufficient funds shall be made available to the tribe on an annual budgetary basis from interest and investment income accruing to such funds to assist the tribe to bring the membership roll current as provided in paragraph (1) of the subsection.

(3) Per capita distributions shall be made, in shares as equal as possible, to all members of the Papago Tribe who were born on or prior to, and living on, the date of enactment of this Act, as follows:

Per capita  
payments.

(i) Persons whose applications for membership on the roll have been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within forty-five days after the date of certification by the Secretary of their eligibility to share in funds under this subsection.

(ii) Persons whose applications for membership on the roll have not been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within ninety days after their membership has been approved by the Papago Tribal Council and

their eligibility to share in funds under this subsection has been certified by the Secretary.

(iii) Upon completion of the membership roll and of all appeals from adverse determinations on applications for membership, and upon the expiration of the time allowed for such appeals, any remaining amount, after the payments provided in paragraph (2) of this subsection and in subparagraphs (i) and (ii) of this paragraph, shall be distributed, in sums as equal as possible, to all enrolled members of the Papago Tribe.

(iv) The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased beneficiaries, legal incompetents, and minors shall be determined and distributed pursuant to regulations prescribed by the Secretary.

(v) Any amount remaining after the per capita distributions to enrollees provided in subparagraph (iii) of this paragraph shall revert to the tribe and shall be added to the principal fund held and administered by the Secretary pursuant to subsection (b) of this section.

Tax exemption.

(d) None of the funds distributed per capita or held in trust under the provisions of this section shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S. 1986:

HOUSE REPORT No. 97-935 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-492 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 19, considered and passed Senate.

Dec. 6, considered and passed House, amended.

Dec. 16, Senate agreed to House amendments with an amendment.

Dec. 17, House agreed to Senate amendment.

Public Law 97-409  
97th Congress

An Act

To change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

Jan. 3, 1983

[S. 2059]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Ethics in Government Act Amendments of 1982”.

SEC. 2. (a)(1) Chapter 39 of title 28 of the United States Code is amended by—

(A) striking out “special prosecutor” wherever it appears and inserting in lieu thereof “independent counsel”; and

(B) striking out “special prosecutor’s” wherever it appears and inserting in lieu thereof “independent counsel’s”.

(2) The tables of chapters for title 28 of the United States Code and for part II of title 28 are amended by striking out the item relating to chapter 39 and inserting in lieu thereof the following new item:

“39. Independent Counsel.”.

(b)(1) Section 49 of title 28 of the United States Code is amended by—

(A) striking out “special prosecutor” wherever it appears and inserting in lieu thereof “independent counsel”; and

(B) striking out “special prosecutors” wherever it appears and inserting in lieu thereof “independent counsels”; and

(C) striking out “special prosecutor’s” wherever it appears and inserting in lieu thereof “independent counsel’s”.

(2) The item for section 49 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out “special prosecutors” and inserting in lieu thereof “independent counsels”.

(c) Title VI of the Ethics in Government Act of 1978 is amended by—

(1) striking out “SPECIAL PROSECUTOR” in the heading for section 601 and inserting in lieu thereof “INDEPENDENT COUNSEL”;

(2) striking out “special prosecutors” in subsection (c) of section 601 and inserting in lieu thereof “independent counsels”; and

(3) striking out “SPECIAL PROSECUTORS” in the heading for section 602 and inserting in lieu thereof “INDEPENDENT COUNSELS”.

SEC. 3. Paragraphs (3) through (6) of subsection (b) of section 591 of title 28 of the United States Code are amended to read as follows:

“(3) any individual working in the Executive Office of the President who is compensated at or above a rate equivalent to level II of the Executive Schedule under section 5313 of title 5;

“(4) any Assistant Attorney General and any individual working in the Department of Justice compensated at a rate at or

Ethics in  
Government Act  
Amendments of  
1982

28 USC 1 note.

28 USC 591 *et*  
*seq.*

28 USC prec. 591,  
591.

28 USC 592, 594,  
596.

28 USC 591 note.

28 USC 49

above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than two years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President."

SEC. 4. (a)(1) Section 591(a) of title 28 of the United States Code is amended by striking out "specific information" and by inserting in lieu thereof "information sufficient to constitute grounds to investigate".

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

Investigation.

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest."

(b) Section 592(a) of title 28 of the United States Code is amended to read as follows:

Preliminary investigation.

"(a)(1) Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. In determining whether grounds to investigate exist, the Attorney General shall consider—

28 USC 591.

"(A) the degree of specificity of the information received, and

"(B) the credibility of the source of the information.

Limitation of authority.

"(2) In conducting preliminary investigations pursuant to this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas."

(c) Section 592(b)(1) of title 28 of the United States Code is amended by striking out "that the matter is so unsubstantiated that no further investigation or prosecution is warranted" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted".

(d) Section 592(c)(1) of title 28 of the United States Code is amended by—



(1) striking out “finds that the matter warrants further investigation or prosecution” and inserting in lieu thereof “finds reasonable grounds to believe that further investigation or prosecution is warranted”;

(2) striking out “that the matter is so unsubstantiated as not to warrant further investigation or prosecution” and inserting in lieu thereof “that there are no reasonable grounds to believe that further investigation or prosecution is warranted”; and

(3) adding at the end thereof the following new sentence: “In determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.”.

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out “specific information” and inserting in lieu thereof “information sufficient to constitute grounds to investigate”; and

(2) in clause (B) by striking out “such information warrants” and inserting in lieu thereof “reasonable grounds exist to warrant”.

SEC. 5. Section 593 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

“(f) Upon a showing of good cause by the Attorney General, the division of the court may grant a single extension of the preliminary investigation conducted pursuant to section 592(a) of this title for a period not to exceed sixty days.

Preliminary  
investigation,  
extension.

“(g) Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorney’s fees incurred by such subject during such investigation if—

Attorney fees,  
reimbursement.

“(1) no indictment is brought against such subject; and

“(2) the attorney’s fees would not have been incurred but for the requirements of this chapter.”.

SEC. 6. (a) Subsection (a) of section 594 of title 28 of the United States Code is amended by—

(1) striking out “and” at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and “and”; and

(3) adding after paragraph (9) the following:

“(10) consulting with the United States Attorney for the district in which the violation was alleged to have occurred.”.

(b) Subsection (f) of section 594 of title 28 of the United States Code is amended by—

(1) striking out “to the extent that such special prosecutor deems appropriate” and inserting in lieu thereof “except where not possible”; and

(2) striking out “written policies” and inserting in lieu thereof “written or other established policies”.

(c) Section 594 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

“(g) The independent counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies

Dismissal  
authority.

of the Department of Justice with respect to the enforcement of criminal laws.”.

(d) Paragraph (1) of subsection (a) of section 596 of title 28 of the United States Code is amended by striking out “extraordinary impropriety” and inserting in lieu thereof “good cause”.

SEC. 7. Section 598 of title 28 of the United States Code is amended by striking out “after the date of enactment of this chapter” and inserting in lieu thereof “after the date of enactment of the Ethics in Government Act Amendments of 1982”.

Approved January 3, 1983.

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**LEGISLATIVE HISTORY—S. 2059:**

SENATE REPORT No. 97-496 (Comm. on Governmental Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 12, considered and passed Senate.

Dec. 13, considered and passed House, amended.

Dec. 16, Senate agreed to House amendments.

Public Law 97-410  
97th Congress

An Act

To amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities.

Jan. 3, 1983  
[S. 2355]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Telecommunications for the Disabled Act of 1982".

Telecommunications for the Disabled Act of 1982.  
47 USC 609 note.  
47 USC 610 note.

SEC. 2. The Congress finds that—

- (1) all persons should have available the best telephone service which is technologically and economically feasible;
- (2) currently available technology is capable of providing telephone service to some individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;
- (3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best telephone service which is technologically and economically feasible; and
- (4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

SEC. 3. Title VI of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"TELEPHONE SERVICE FOR THE DISABLED

"SEC. 610. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

Regulations.  
47 USC 610.

"(b) The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term 'essential telephones' means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.

"Essential telephones."

"(c) The Commission shall establish or approve such technical standards as are required to enforce this section.

"(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

Review.      “(f) The Commission shall complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment of the Telecommunications for the Disabled Act of 1982. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

“ (g) Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

Enforcement.      “(h) The Commission shall delegate to each State commission the authority to enforce within such State compliance with the specific regulations that the Commission issues under subsections (a) and (b), conditioned upon the adoption and enforcement of such regulations by the State commission.”

47 USC 396 note.  
95 Stat. 725.      Sec. 4. Subparagraph (B) of paragraph (2) of section 1225(a) of the Public Broadcasting Amendments Act of 1981 is amended to read as follows:

Directors, terms  
of office.  
47 USC 396.      “(B) Notwithstanding the provisions of subsection (c) of section 396 of the Communications Act of 1934, in the case of the offices of director the terms of which expired March 1982, persons appointed to fill two of such vacancies existing as of December 13, 1982, shall be appointed for terms which shall expire on March 1, 1984 and shall not be representative of the political party having a majority of the directors of the Board on December 13, 1982. Persons appointed for a term beginning March 1, 1984, to fill the vacancies occurring in such offices the terms of which, by reason of the preceding sentence, expire on March 1, 1984, shall not be filled by persons representing the political party having a majority of the directors of the Board on March 1, 1984. Persons appointed on or after March 1, 1984, to fill vacancies in the two such offices shall be appointed for terms of five years. On March 1, 1984, there are abolished those five offices of director the terms of which, without application of the preceding provisions of this paragraph, expire on such date. In administering the provisions of this paragraph a

director is a minority member of the Board if he is not a member of the political party to which the majority of the directors of the Board are members.”.

SEC. 5. The Communications Satellite Act of 1962, as amended (47 U.S.C. 701 et seq.), is amended by deleting the second sentence of section 304(b)(2) of such Act.

47 USC 734.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S 2355:

HOUSE REPORT No. 97-888 (Comm. on Energy and Commerce).

SENATE REPORT No. 97-503 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 18, considered and passed Senate.

Dec. 13, considered and passed House, amended

Dec. 16, Senate concurred in House amendments with an amendment.

Dec. 18, House concurred in Senate amendment

Public Law 97-411  
97th Congress

An Act

Jan. 3, 1983

[S. 2955]

To establish the Cheaha Wilderness in Talladega National Forest, Alabama.

Cheaha  
Wilderness Act.  
16 USC 1132  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Cheaha Wilderness Act".

Effective date.

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the Talladega National Forest, Alabama, which comprise approximately six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Cheaha Wilderness Proposed", dated May 1982, are hereby designated as wilderness and shall be known as the Cheaha Wilderness.

(b) Subject to valid existing rights, the wilderness area designated under subsection (a) shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131-1136) governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Map and legal  
description,  
filing with  
congressional  
committees.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary shall submit a map and legal description of the wilderness area designated by subsection (a) to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service, Department of Agriculture.

Public  
inspection.

Approved January 3, 1983.

LEGISLATIVE HISTORY—S. 2955 (H.R. 6011):

HOUSE REPORT No. 97-646 accompanying H.R. 6011, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 2, 4, H.R. 6011 considered and passed House.

Dec. 19, S. 2955 considered and passed Senate.

Dec. 20, considered and passed House.

Public Law 97-412  
97th Congress

An Act

To amend section 1304(e) of title 5, United States Code.

Jan. 3, 1983

[S. 3103]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 1304(e)(1) of title 5, United States Code, is amended by inserting “(i)” after “(1)”, and by adding a new paragraph as follows:

United States  
Code, title 5,  
amendment.

“(ii) Participation fees, which the President’s Commission on Executive Exchange may impose for private sector participation in its Executive Exchange Program shall be collected and credited to the fund, and shall be available for the costs of education and related travel of exchanged executives; for printing without regard to section 501 of title 44, United States Code; and, in such amounts as may be specified in appropriations Acts, for entertainment expenses.”.

Executive  
Exchange  
Program,  
participation  
fees.

(b) The authority granted in subsection (a) shall terminate on December 31, 1983.

Termination of  
authority.  
5 USC 1304 note.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S. 3103:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 15, considered and passed Senate.

Dec. 17, 20, considered and passed House

Public Law 97-413  
97th Congress

## Joint Resolution

Jan. 3, 1983  
[S.J. Res. 270]

To designate 1983 as the "Bicentennial of Air and Space Flight".

Whereas the first manned flight in history was made by Etienne de Montgolfier at LaMulette, France, on November 21, 1783, releasing man from his terrestrial shackles;

Whereas a few months later in Baltimore, Maryland, a thirteen-year-old boy named Edward Warren soared aloft in a balloon launched by Peter Carnes, Esquire, who a few days previously launched America's first hot air balloon, the Splendid Chariot, from the grounds of the Indian Queen Tavern in Bladensburg, Maryland;

Whereas the United States and its first ally, France, together with many other countries will celebrate the extraordinary achievements in air and space flight of the past two centuries;

Whereas the United States Organizing Committee has been established to plan, coordinate, and assist in the implementation of national, State, and local festivities during 1983;

Whereas the bicentennial provides an opportunity for increasing public awareness in international trade, of education in science, mathematics, and engineering, and of reigniting the creativity and competitiveness that has historically fueled America and its economy: Now, therefore, be it

Bicentennial of  
Air and Space  
Flight.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the year commencing January 1, 1983, is hereby designated the "Bicentennial of Air and Space Flight", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S.J. Res. 270:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 7, considered and passed Senate.

Dec. 20, considered and passed House.



Public Law 97-414  
97th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

Jan. 4, 1983

[H.R. 5238]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Orphan Drug Act.

SHORT TITLE; FINDINGS

SECTION 1. (a) This Act may be cited as the "Orphan Drug Act".  
(b) The Congress finds that—

21 USC 301 note.  
21 USC 360aa note.

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States;

(2) adequate drugs for many of such diseases and conditions have not been developed;

(3) drugs for these diseases and conditions are commonly referred to as "orphan drugs";

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably expect the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial loss;

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drugs; and

(6) it is in the public interest to provide such changes and incentives for the development of orphan drugs.

AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 2. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SUBCHAPTER B—DRUGS FOR RARE DISEASES OR CONDITIONS

"RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 525. (a) The sponsor of a drug for a disease or condition which is rare in the States may request the Secretary to provide written recommendations for the non-clinical and clinical investigations which must be conducted with the drug before—

21 USC 360aa.

"(1) it may be approved for such disease or condition under section 505, or

21 USC 355.

42 USC 262. “(2) if the drug is a biological product, before it may be licensed for such disease or condition under section 351 of the Public Health Service Act.

If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for a disease or condition which is rare in the States, the Secretary shall provide the person making the request written recommendations for the non-clinical and clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for such disease or condition under section 505 or licensing under section 351 of the Public Health Service Act for such disease or condition.

21 USC 355.

“(b) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

#### “DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

21 USC 360bb.

“SEC. 526. (a)(1) The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for a rare disease or condition. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for a rare disease or condition and—

“(A) if an application for such drug is approved under section 505, or

“(B) if the drug is a biological product, a license is issued under section 351 of the Public Health Service Act, the approval or license would be for use for such disease or condition, the Secretary shall designate the drug as a drug for such disease or condition. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

“Rare disease or condition.”

“(2) For purposes of paragraph (1), the term ‘rare disease or condition’ means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.

Notice.

“(b) Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

“(c) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

#### “PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

21 USC 360cc.

“SEC. 527. (a) Except as provided in subsection (b), if the Secretary—

“(1) approves an application filed pursuant to section 505(b), or

“(2) issues a license under section 351 of the Public Health Service Act

for a drug designated under section 526 for a rare disease or condition and for which a United States Letter of Patent may not be issued, the Secretary may not approve another application under section 505(b) or issue another license under section 351 of the Public Health Service Act for such drug for such disease or condition for a person who is not the holder of such approved application or of such license until the expiration of seven years from the date of the approval of the approved application or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

*Ante*, p. 2050.

21 USC 355.

42 USC 262.

“(b) If an application filed pursuant to section 505(b) is approved for a drug designated under section 526 for a rare disease or condition or a license is issued under section 351 of the Public Health Service Act for such a drug and if a United States Letter of Patent may not be issued for the drug, the Secretary may, during the seven-year period beginning on the date of the application approval or of the issuance of the license, approve another application under section 505(b), or, if the drug is a biological product, issue a license under section 351 of the Public Health Service Act, for such drug for such disease or condition for a person who is not the holder of such approved application or of such license if—

“(1) The Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with the disease or condition for which the drug was designated; or

“(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications or the issuance of other licenses before the expiration of such seven-year period.

“OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES  
OR CONDITIONS

“SEC. 528. If a drug is designated under section 526 as a drug for a rare disease or condition and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with the disease or condition who need the drug to treat the disease or condition and who cannot be satisfactorily treated by available alternative drugs.”

21 USC 360dd

(b) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting before section 501 the following:

“SUBCHAPTER A—DRUGS AND DEVICES.”

ORPHAN PRODUCTS BOARD

SEC. 3. Title II of the Public Health Service Act is amended by adding at the end the following:

## "ORPHAN PRODUCTS BOARD

Establishment.  
42 USC 236.

"SEC. 227. (a) There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representatives, selected by the Secretary, of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

"(b) The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

"(c) In the case of drugs for rare diseases or conditions the Board shall—

"(1) evaluate—

*Ante*, p. 2049.      "(A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act on the development of such drugs, and

"(B) the implementation of such subchapter;

"(2) evaluate the activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration for the development of drugs for such diseases or conditions,

"(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Centers for Disease Control in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

"(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such drugs,

21 USC 355.      "(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(i) of the Federal Food, Drug, and Cosmetic Act or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act or licensed under section 351 of this Act for rare diseases or conditions,

42 USC 262.      "(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs, and seek business entities to participate in the distribution of such drugs, and

"(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

"(d) The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such

consultation shall provide the opportunity for the submission of oral views.

“(e) The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report—

Report to congressional committees.

“(1) identifying the drugs which have been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a rare disease or condition,

“(2) describing the activities of the Board, and

“(3) containing the results of the evaluations carried out by the Board.

The Director of the National Institutes of Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration; the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of the credit against tax provided by section 44H of the Internal Revenue Code of 1954; and the Secretary of Health and Human Services shall submit to the Board for inclusion in the annual report a report on the program of assistance under section 5 of the Orphan Drug Act for the development of drugs for rare diseases and conditions. Each annual report shall be submitted by June 1 of each year for the preceding calendar year.”

*Infra*

*Post*, p. 2056

#### TAX CREDIT FOR TESTING EXPENSES FOR DRUGS FOR RARE DISEASES OR CONDITIONS

SEC. 4. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44G the following new section:

#### “SEC. 44H. CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.

26 USC 44H.

“(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified clinical testing expenses for the taxable year.

“(b) QUALIFIED CLINICAL TESTING EXPENSES.—For purposes of this section—

“(1) QUALIFIED CLINICAL TESTING EXPENSES.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘qualified clinical testing expenses’ means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 44F if such subsection were applied with the modifications set forth in subparagraph (B).

“(B) MODIFICATIONS.—For purposes of subparagraph (A), subsection (b) of section 44F shall be applied—

“(i) by substituting ‘clinical testing’ for ‘qualified research’ each place it appears in paragraphs (2) and (3) of such subsection, and

“(ii) by substituting ‘100 percent’ for ‘65 percent’ in paragraph (3)(A) of such subsection.

“(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term ‘qualified clinical testing expenses’ shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

“(D) SPECIAL RULE.—For purposes of this paragraph, section 44F shall be deemed to remain in effect for periods after December 31, 1985.

“(2) CLINICAL TESTING.—

“(A) IN GENERAL.—The term ‘clinical testing’ means any human clinical testing—

“(i) which is carried out under an exemption for a drug being tested for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

“(ii) which occurs—

“(I) after the date of such drug is designated under section 526 of such Act, and

“(II) before the date on which an application with respect to such drug is approved under section 505(b) of such Act, and

“(iii) which is conducted by or on behalf of the taxpayer to whom the designation under such section 526 applies.

“(B) TESTING MUST BE RELATED TO USE FOR RARE DISEASE OR CONDITION.—Human clinical testing shall be taken into account under subparagraph (A) only to the extent such testing is related to the use of a drug for the rare disease or condition for which it was designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

“(c) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any qualified clinical testing expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 44F for such taxable year.

“(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any qualified clinical testing expenses for any taxable year which are qualified research expenses (within the meaning of section 44F(b)) shall be taken into account in determining base period research expenses for purposes of applying section 44F to subsequent taxable years.

“(d) DEFINITION AND SPECIAL RULES.—

“(1) RARE DISEASE OR CONDITION.—For purposes of this section, the term ‘rare disease or condition’ means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year

21 USC 355.

*Ante*, p. 2050.

reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

**"(3) SPECIAL LIMITATIONS ON FOREIGN TESTING.—**

**"(A) IN GENERAL.—**No credit shall be allowed under this section with respect to any clinical testing conducted outside the United States unless—

**"(i)** such testing is conducted outside the United States because there is an insufficient testing population in the United States, and

**"(ii)** such testing is conducted by a United States person or by any other person who is not related to the taxpayer to whom the designation under section 526 of the Federal Food, Drug, and Cosmetic Act applies.

**"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 934(b) OR 936 APPLIES.—**No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which section 934(b) applies or to which an election under section 936 applies.

**"(4) CERTAIN RULES MADE APPLICABLE.—**Rules similar to the rules of paragraphs (1) and (2) of section 44F(f) shall apply for purposes of this section.

**"(5) ELECTION.—**This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year.

**"(e) TERMINATION.—**This section shall not apply to any amount paid or incurred after December 31, 1987."

(b)(1) Section 280C of such Code (relating to denial of deduction for portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

26 USC 280C

**"(c) CREDIT FOR QUALIFIED CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS.—**

**"(1) IN GENERAL.—**No deduction shall be allowed for that portion of the qualified clinical testing expenses (as defined in section 44H(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof).

**"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—**If—

**"(A)** the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof), exceeds

**"(B)** the amount allowable as a deduction for the taxable year for qualified clinical testing expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

**"(3) CONTROLLED GROUPS.—**In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 44F(f)(5)) or a trade or business which is

treated as being under common control with other trades or business (within the meaning of section 44F(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 44F(f)(1)."

(2)(A) The section heading of section 280C of such Code is amended to read as follows:

"SEC. 280C. CERTAIN EXPENSES FOR WHICH CREDITS ARE ALLOWABLE."

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 280C and inserting in lieu thereof the following:

"Sec. 280C. Certain expenses for which credits are allowable."

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Clinical testing expenses for certain drugs for rare diseases or conditions."

26 USC 6096.

(2) Subsection (b) of section 6096 of such Code is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

26 USC 44H  
note

(d) The amendments made by this section shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

#### GRANTS AND CONTRACTS FOR DEVELOPMENT OF DRUGS FOR RARE DISEASES AND CONDITIONS

21 USC 360ee.

SEC. 5. (a) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified clinical testing expenses incurred in connection with the development of drugs for rare diseases and conditions.

(b) For purposes of subsection (a):

"Qualified  
clinical  
testing."

(1) The term "qualified clinical testing" means any human clinical testing—

(A) which is carried out under an exemption for a drug for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

(B) which occurs—

Ante, p. 2050.

(i) after the date such drug is designated under section 526 of such Act, and

(ii) before the date on which an application with respect to such drug is submitted under section 505(b) of such Act.

21 USC 355.  
"Rare disease or  
condition."

(2) The term "rare disease or condition" means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.



(c) For grants and contracts under subsection (a) there are authorized to be appropriated \$4,000,000 for fiscal year 1983 and for each of the next two fiscal years.

Appropriation  
authorization

#### HOME HEALTH SERVICES

SEC. 6. (a) Part D of title III of the Public Health Service Act is amended by inserting after subpart II the following new subpart:

#### “SUBPART III—HOME HEALTH SERVICES

##### “HOME HEALTH SERVICES

“SEC. 339. (a)(1) For the purpose of encouraging the establishment and initial operation of home health programs to provide home health services in areas in which such services are inadequate or not readily accessible, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessionals (including homemaker home health aides) to provide home health services.

Grants.  
42 USC 255.

“(2) In making grants and loans under this subsection, the Secretary shall—

“(A) consider the relative needs of the several States for home health services;

“(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled; and

“(C) give special consideration to areas with inadequate means of transportation to obtain necessary health services.

“(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that—

“(i) at the time the application is made the entity is fiscally sound;

“(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

“(iii) during the period of the loan, such entity will remain fiscally sound.

“(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on the date the loan is made with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

“(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

“(5) There are authorized to be appropriated for grants and loans under this subsection \$5,000,000 for each of the fiscal years ending on September 30, 1983, and September 30, 1984.

Appropriation  
authorization.

“(b)(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appro-

appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

"(2) Any program established with a grant or contract under this subsection to train homemaker home health aides shall—

"(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

"(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home in a manner which promotes the functional independence of the individual; and

"(C) include training in—

"(i) personal care services designed to assist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

"(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and preparation of food).

"(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become paraprofessionals (including homemaker home health aides) to provide home health services.

"(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

"(5) There are authorized to be appropriated for grants and contracts under this subsection \$2,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

"(c) The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with respect to—

"(1) the impact of grants made and contracts entered into under subsections (a) and (b) (as such subsections were in effect prior to October 1, 1981);

"(2) the need to continue grants and loans under subsections (a) and (b) (as such subsections are in effect on the day after the date of enactment of the Orphan Drug Act); and

"(3) the extent to which standards have been applied to the training of personnel who provide home health services.

"(d) For purposes of this section, the term 'home health services' has the meaning prescribed for the term by section 1861(m) of the Social Security Act."

(b) The Secretary shall report the results of studies currently evaluating home and community based health services, and any recommendations for legislative action which might improve the provision of such services, to the Congress prior to January 1, 1985.

(c) The Secretary of Health and Human Services shall compile and analyze the results of significant studies carried out by any public or private entity, group, or individual, relating to current and alternative reimbursement methodologies for home health services. The Secretary shall make recommendations with respect to such reimbursement methodologies as they might be applied in health care

Appropriation  
authorization.

Report to  
congressional  
committees.

42 USC 1395x.

Report and  
recommendations  
to  
Congress.

42 USC 255 note.

42 USC 255 note.

programs funded in whole or in part by Federal funds, and report such recommendations to the Congress within 180 days after the date of the enactment of this Act.

(d) The Secretary of Health and Human Services, acting through the Inspector General of the Department of Health and Human Services, shall undertake a thorough investigation of—

Investigation.  
42 USC 255 note.

(1) the methods available to stem fraud and abuse in the provision of home health services under medicare and medicaid; and

(2) the extent to which such methods are applied in stemming such fraud and abuse.

The Secretary shall report the results of the investigation to the Congress within 18 months after the date of the enactment of this Act.

Report to  
Congress.

(e)(1) The Secretary of Health and Human Services shall develop and carry out demonstration projects commencing no later than January 1, 1984, to test—

42 USC 255 note.

(A) methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services and other non-institutional health services; and

(B) alternative reimbursement methodologies for home health agencies in order to determine the most cost-effective and efficient way of providing home health services.

(2) Methods for identifying patients at risk of institutionalization to be tested by the Secretary under paragraph (1)(A) may include, but not be limited to, the identification of hospitalized medicare patients who are candidates for early discharge due to availability of home health services and individuals in the community who could avoid institutionalization with the availability of home health services.

(3) Reimbursement methodologies to be tested by the Secretary under paragraph (1)(B) may include but not be limited to fee schedules, prospective reimbursement, and capitation payments.

(4) The Secretary shall report to Congress his findings with regard to the demonstrations carried out under paragraph (1) no later than January 1, 1985.

Report to  
Congress.

(f) For purposes of this section, the term "home health services" has the meaning prescribed for the term by section 1861(m) of the Social Security Act.

"Home health  
services."  
42 USC 255 note.  
42 USC 1395x.

#### ANALYSIS OF THYROID CANCER; ACTIONS BY SECRETARY

SEC. 7. (a) In carrying out section 301 of the Public Health Service Act, the Secretary of Health and Human Services shall—

42 USC 241 note.  
42 USC 241.

(1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;

(2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;

(3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and

Report to  
Congress.

Radioepidemi-  
ological tables,  
publication.

Update of  
tables.

(4) prepare and transmit to the Congress within one year after the date of enactment of this Act a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).  
(b)(1) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each radiation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.

(2) At the time the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish—

(A) for the tables of each radiation related cancer, an evaluation which will assess the credibility, validity, and degree of certainty associated with such tables; and

(B) a compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probability of causation of any individual who has or has had a radiation related cancer and has received any given dose.

(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.

#### TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 8. (a) Section 207(a)(1) of such Act (42 U.S.C. 209(a)(1)) is amended by inserting "psychology," after "pharmacy,".

(b) Section 306(1)(2) of such Act (42 U.S.C. 242k(1)(2)) is amended by striking out subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(c) Section 308(d) of such Act (42 U.S.C. 242m(d)) is amended (1) by inserting " , if an establishment or person supplying the information or described in it is identifiable," after "No information", and (2) by striking out "authorized by guidelines in effect under section 306(1)(2) or under regulations of the Secretary" and inserting in lieu thereof "such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose".

(d) The first sentence of section 311(c)(2) of such Act (42 U.S.C. 243(c)(2)) is amended by striking out "forty-five days" and inserting instead "six months".

(e) Section 330(d)(2) of such Act (42 U.S.C. 254c(d)(2)) is amended by inserting before "and the costs" the following: " , the costs of repay-

ing loans made by the Farmers Home Administration for buildings.”.

(f) Section 337(a) of such Act (42 U.S.C. 254j(a)) is amended by striking out “carrying out this subpart” and inserting in lieu thereof “carrying out this subpart (other than section 338G)”.

(g)(1) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254m-(e)) is amended by inserting before the period the following: “or under section 225 as in effect on September 30, 1977”.

(2) Section 338D(b) of such Act (42 U.S.C. 294w(b)) is amended by striking out “section 338F(b)” and inserting in lieu thereof “section 338E(d)”.

42 USC 254o.

(3) Section 338E(d)(1) of such Act (42 U.S.C. 294x(d)(1)) is amended by striking out “section 338D(c)” and inserting in lieu thereof “section 338D(b)”.

42 USC 254p

(h) Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended (1) by striking out “and” after “1980,” in paragraph (1) and by inserting before the period in that paragraph a comma and “and \$3,000,000 for the fiscal year ending September 30, 1982”, and (2) by inserting “and” after “1980,” in paragraph (2) and by striking out in that paragraph “, and \$3,000,000 for the fiscal year ending September 30, 1982”.

(i) Section 737(2) of such Act (42 U.S.C. 294j(2)) is amended by inserting “in a State” after “means a school”.

(j) Section 781(a)(2) of such Act (42 U.S.C. 295g-1(a)(2)) is amended by striking out “under area health education center programs”.

(k)(1) Section 791A(b)(3)(A) of such Act (42 U.S.C. 295h-1a(b)(3)(A)) is amended by striking out “postbaccalaureate” and inserting in lieu thereof “baccalaureate”.

(2) Section 791(c)(2)(A) of such Act (42 U.S.C. 295h(c)(2)(A)) is amended to read as follows:

“(A) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

“(i) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

“(ii) such entity shall expend or obligate at least \$100,000 in funds from non-Federal sources to conduct such programs; and”.

(l) Section 831(b) of such Act (42 U.S.C. 297-1(b)) is amended by inserting before the period a comma and the following: “\$400,000 for the fiscal year ending September 30, 1983, and \$800,000 for the fiscal year ending September 30, 1984”.

(m) Title VIII of such Act is amended by adding at the end thereof the following:

“TECHNICAL ASSISTANCE

“SEC. 857. Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.”.

42 USC 298b-4.

(n) Sections 1001(c), 1003(b), and 1005(b) of such Act (42 U.S.C. 300(c), 300a-1(b), 300a-3(b)) are each amended by striking out the comma after “1981” and inserting in lieu thereof a semicolon.

(o) Section 1101(b) of such Act (42 U.S.C. 300b(b)) (as in effect before its repeal by section 2193(b)(1) of the Omnibus Budget Reconciliation Act of 1981) is amended by inserting a comma after “1981”.

95 Stat. 826

(p) Section 1536 of such Act (42 U.S.C. 300n-5) (as amended by section 935 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "this title and" and inserting in lieu thereof "this title and—".

(q) Section 1602(f)(2) of such Act (42 U.S.C. 300g-2(f)(2)) is amended by inserting after "including" the following: "selling real property pledged as security for such a loan or loan guarantee and".

(r)(1) The matter in section 1706(a) (42 U.S.C. 300u-5(a)) of the Public Health Service Act preceding paragraph (1) is amended by striking out "Health Information, Health Promotion and Physical Fitness and Sports Medicine" and inserting instead "Health promotion".

(2) The section heading for section 1706 of such Act (42 U.S.C. 300u-5) is amended to read as follows:

**"OFFICE OF HEALTH PROMOTION".**

(s) The second sentence of section 1904(a)(1)(F) of such Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by striking out "equipment for the systems" and inserting in lieu thereof "equipment for the systems (other than systems with respect to which grants were made as prescribed by section 1905(c)(2))".

(t) Effective October 1, 1982, section 1912(b) of such Act (42 U.S.C. 300x-1(b)) is amended to read as follows:

"(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts—

"(A) which would have been provided by the Secretary to the State and entities in the State under section 301 of this Act for mental health services demonstrations and under the Community Mental Health Centers Act and the Mental Health Systems Act for mental health services for fiscal year 1981 if the Secretary had obligated all the funds for such purposes available for such Acts under Public Law 96-536, and

"(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (D) and (E) of paragraph (2) for fiscal year 1980,

bore to the total amount appropriated for mental health services demonstrations and mental health services for fiscal year 1981 under Public Law 96-536 for section 301 of this Act, the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (D) and (E) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Centers Act.

"(B) The Mental Health Systems Act.

"(C) Section 301 of this Act.

"(D) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970.

"(E) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) For purposes of paragraph (1), the total amount appropriated under Public Law 96-536 for mental health services demonstrations

42 USC 2689  
note, 9401  
note.

42 USC 241.

42 USC 4571,  
4578.

95 Stat. 595.

21 USC 1176,  
1177.

under section 301 of this Act shall be deemed not to exceed \$20,000,000; and if such total amount did exceed \$20,000,000, the amount that would have been provided to each State and entities in each State shall be ratably reduced for purposes of paragraph (1)(A) to conform to the limit prescribed by this paragraph.

“(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

“(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year;

42 USC 300x-4

“(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

“(C) some State allotments are offset or repaid under section 1916(b)(3);

42 USC 300x-5.

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.”.

(u)(1) section 1915(c)(5) of such Act (42 U.S.C. 300x-4(c)(5)) is amended (1) by inserting “procedures for” before “procedural”, and (2) by striking out “review procedures” and inserting in lieu thereof “review”.

(2)(A) Section 1915(c)(6)(A)(i) of such Act (42 U.S.C. 300x-4(c)(6)(A)(i)) is amended—

(i) by striking out “for mental health services”;

(ii) by inserting “for mental health services” after “fiscal year 1981”;

(iii) by inserting “for mental health services demonstrations under section 301 of this Act” before “if the Secretary”; and

(iv) by striking out “such Acts” each place it occurs and inserting in lieu thereof “such provisions of law”.

(B) Section 1915(c)(6)(A)(ii) of such Act (42 U.S.C. 300x-4(c)(6)(A)(ii)) is amended—

(i) by striking out “for mental health services”;

(ii) by inserting “for mental health services” after “fiscal year 1981”;

(iii) by inserting “and for mental health services demonstrations under section 301 of this Act” before “if the Secretary”; and

(iv) by striking out “such Acts” and inserting in lieu thereof “such provisions of law”.

(v) Section 1932 of such Act is amended by—

95 Stat. 559

(1) inserting “(a)” after “1932.”, and

42 USC 300y-11.

(2) adding a new subsection (b) as follows:

“(b) The Secretary shall promulgate separate regulations governing the administration of this part. Such regulations shall take into account the distinctive features of the grant program authorized under this part.”.

Regulations.

(w) From the funds appropriated under section 419B of such Act or under any other applicable provision of law, the Secretary of Health and Human Services shall provide for the development and support of not less than ten comprehensive centers for sickle cell disease.

42 USC 287i

note.

42 USC 287i.

## MISCELLANEOUS TECHNICAL AMENDMENTS

- 95 Stat. 570.  
42 USC 300,  
300a-1, 300a-3.
- 95 Stat. 572.  
42 USC 300m.
- 95 Stat. 573.  
42 USC 300e-1.
- 95 Stat. 593.  
42 USC 4577.
- 95 Stat. 593.
- 95 Stat. 594.  
42 USC 4588.
- 95 Stat. 922.  
42 USC 295g-4.
- SEC. 9. (a) Section 931(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “‘1980,’” in paragraphs (1), (2), and (3) and inserting in lieu thereof “‘1980;’”.
- (b) Section 936(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “300m(d)(1)(B)(ii)” and inserting in lieu thereof “300m(d)(1)(B)”.
- (c) Section 942(i) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “‘feasible (1)’” and inserting in lieu thereof “‘feasible (i)’”.
- (d)(1) Section 963(b)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “clause (2)” and inserting in lieu thereof “clause (3)”.
- (2) Section 311(a)(3) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(b)(3)) is amended by striking out the period at the end and inserting in lieu thereof a comma.
- (e) Section 965(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out paragraph (A) and by redesignating paragraphs (B), (C), and (D) as paragraphs (1), (2), and (3), respectively.
- (f) Section 2741(a)(3) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “and ‘and’”.
- (g)(1) Section 709 of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out subsections (a) and (b), (2) by striking out “(c)”, and (3) by amending the section heading to read as follows:

## “PAYMENT OF TORT CLAIMS”.

- (2) The item relating to section 709 in the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out “Authorizations of Appropriations” and inserting in lieu thereof “Payment of Tort Claims”.
- (h) Section 302 of the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79) is repealed.
- (i) The paragraph beginning with “Service and supply fund:” under the heading “PUBLIC HEALTH SERVICE” in the Federal Security Agency Appropriation Act, 1946 (42 U.S.C. 231) is amended by inserting “, or in advance,” after “stock furnished”.
- (j)(1) Section 6(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(1)) is amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (4)”.
- (2) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by striking out “section 10(e)(4)” and inserting in lieu thereof “subsection (f)”.
- (3) Section 15(g)(1) of such Act (15 U.S.C. 2064(g)(1)) is amended by striking out “section 12(c)(1)” and inserting in lieu thereof “12(d)(1)”.
- (4)(A) Section 19(a)(7) of such Act (15 U.S.C. 2068(a)(7)) is amended by striking out “section 9(d)(2)” and inserting in lieu thereof “section 9(g)(2)”.
- (B) Paragraph (8) of section 19(a) of such Act is repealed and paragraph (9) and the first of the two paragraphs (10) are redesignated as paragraphs (8) and (9), respectively.
- (5) Section 31(b)(1) of such Act (15 U.S.C. 2080(b)(1)) is amended by striking out “The Commission” and all that follows through “Substances Act,” and inserting in lieu thereof the following:

Repeal.  
42 USC 300t-11  
note.



“(b)(1) The Commission may not issue—

“(A) an advance notice of proposed rulemaking for a consumer product safety rule,

“(B) a notice of proposed rulemaking for a rule under section 27(e), or

“(C) an advance notice of proposed rulemaking for regulations under section 2(q)(1) of the Federal Hazardous Substances Act.”.

15 USC 1261.

(k) Section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a)) is amended by striking out “, after consultation with the Technical Advisory Committee provided for in section 6 of this Act”.

(l) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) (as amended by section 1211(f)(1) of the Omnibus Budget Reconciliation Act of 1982) is amended by adding at the end thereof the following:

95 Stat. 721.

“(e) For purposes of this section (1) the term ‘manufacturer’ includes an importer for resale, and (2) a dealer who sells at wholesale an article or substance shall with respect to that sale be considered the distributor of that article or substance.”.

“Manufacturer.”

(m) Section 1211(h)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “by inserting ‘, Science and Transportation’ immediately after ‘on Commerce’, and”.

95 Stat. 721.  
15 USC 2064.

#### STUDY

SEC. 10. Of the funds available under section 706 of the Energy Security Act, there shall be made available \$800,000 for the costs of a grant or contract for a study of the water quality of the Quabbin Reservoir in Massachusetts.

42 USC 8905.

#### PATENT TERM EXTENSION

SEC. 11. (a) Title 35, United States Code, is amended by adding the following new section:

##### “§ 155. Patent term extension

35 USC 155.

“Notwithstanding the provisions of section 154, the term of a patent which encompasses within its scope a composition of matter or a process for using such composition shall be extended if such composition or process has been subjected to a regulatory review by the Federal Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act leading to the publication of regulation permitting the interstate distribution and sale of such composition or process and for which there has thereafter been a stay of regulation of approval imposed pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act which stay was in effect on January 1, 1981, by a length of time to be measured from the date such stay of regulation of approval was imposed until such proceedings are finally resolved and commercial marketing permitted. The patentee, his heirs, successors or assigns shall notify the Commissioner of Patents and Trademarks within ninety days of the date of enactment of this section or the date the stay of regulation of approval has been removed, whichever is later, of the number of the patent to be extended and the date the stay was imposed and the date commercial marketing was permitted. On receipt of such notice, the Commissioner shall promptly issue to the owner of record

35 USC 154.

21 USC 301.

21 USC 348.

of the patent a certificate of extension, under seal, stating the fact and length of the extension and identifying the composition of matter or process for using such composition to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office."

(b) The analysis for chapter 14 of such title 35 is amended by adding at the end the following:

"155. Patent term extension."

Approved January 4, 1983.

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**LEGISLATIVE HISTORY—H.R. 5238:**

HOUSE REPORT No. 97-840 Pt. I (Comm. on Energy and Commerce).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 28, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Dec. 14, House concurred in Senate amendment with an amendment.

Dec. 16, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):

Jan. 4, Presidential statement.

Public Law 97-415  
97th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Jan. 4, 1983

[H.R. 2330]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

AUTHORIZATION OF APPROPRIATIONS

Nuclear  
Regulatory  
Commission.  
Appropriations  
authorization.

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, \$485,200,000 for fiscal year 1982 and \$513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than \$80,700,000 for fiscal year 1982 and \$77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed \$1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed \$6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than \$62,900,000 for fiscal year 1982 and \$69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than \$42,000,000 for fiscal year 1982 and \$47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than \$240,300,000 for fiscal year 1982 and \$257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed \$3,500,000 for fiscal year 1982 and \$4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed \$18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed \$57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this para-

graph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than \$21,900,000 for fiscal year 1982 and \$20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than \$37,400,000 for fiscal year 1982 and \$41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

Grants and  
cooperative  
agreements.

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

Reallocated  
funds.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than \$500,000 unless—

Notification of  
congressional  
committees.

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

#### AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

## AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

## LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY  
PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

*Post*, p. 2071.

## NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

## LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal years 1982 and 1983 to conduct the technical review and analysis.

## NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than \$200,000 is authorized to be used by the Nuclear Regulatory Commission for—

Study and  
analysis.

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

Report to  
Congress.

(b)(1) Upon completion of the study and analysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

Commission  
action;  
notification of  
congressional  
committees

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

#### INTERIM CONSOLIDATION OF OFFICES

SEC. 9. (a) Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

#### THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

42 USC 2011  
note  
42 USC 5877  
note.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

#### TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating

42 USC 2133,  
2134.  
*Post*, p. 2073.

Initial petition.

Affidavits.

Publication in  
Federal  
Register.

license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

Final order,  
transmittal to  
congressional  
committees.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

Judicial review.

28 USC 2341 *et*  
*seq.*  
*Post*, p. 2073.

Hearing.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a



temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

*Infra.*

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983."

Expiration date.

#### OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

Notice of publication.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located."

Regulations establishing standards, criteria, and procedures

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating

42 USC 2239 note

license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

#### QUALITY ASSURANCE

Resident  
inspector  
program.  
42 USC 5841  
note.

**SEC. 13. (a)** The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commission shall provide that such inspection personnel as the Commission deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

Commercial  
nuclear  
powerplant  
construction,  
study.

**(b)** The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

"Independent  
inspector."

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

**(c)** For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the

applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

42 USC 2011  
note

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

Pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

Study results,  
submittal to  
Congress.

#### LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes."

42 USC 2014.  
42 USC 2133,  
2134.

#### RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and

Report to  
Congress.

respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

#### SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act;

or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both.

Penalties.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both."

#### DEPARTMENT OF ENERGY INFORMATION

95 Stat. 1169.

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after "Secretary)" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

Judicial review.

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

Quarterly  
report.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage

of nuclear materials, equipment, or facilities, as specified under subsection a.; and

“(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.”.

#### STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended— 42 USC 2022.

(1) by striking in subsection a. “one year after the date of enactment of this section” and substituting “October 1, 1982” and by adding the following at the end thereof: “After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.”;

42 USC 7911.

(2) by striking in subsection b. (1) “eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate” and inserting in lieu thereof the following: “October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,”;

(3) by adding the following at the end of subsection b. (1): “If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.”;

Promulgation authority.

42 USC 2014.

(4) by adding the following new subsection at the end thereof: “f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521

Uranium mill licensing requirement regulations.

- Implementation and enforcement.
- to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.
- Review, public comment, and suspension.
- "(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—
- "(A) the standards proposed by the Administrator are promulgated in final form without modification, and
- "(B) the Commission's requirements are modified to conform to such standards.
- Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate byproduct material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.
- "(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.
- "(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment."
- 42 USC 2114.
- Remedial action.
- 42 USC 7918.
- (b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:
- "(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form."
- Ante*, p. 2077;  
*post*, p. 2080.
- (2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

#### AGREEMENT STATES

- 42 USC 2021.
- SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may
- 42 USC 2014.

adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.”.

42 USC 2022.

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof: “: *Provided, however,* That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.”.

42 USC 2021  
note.

42 USC 2021

## AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

Alternative  
proposals by  
licensees.

“c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.”.

42 USC 2114.

42 USC 2014.

42 USC 2022.

## EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

42 USC 7912.

“(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota, that—

42 USC 7911.

“(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and  
 “(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.”.

42 USC 7917.

## ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

42 USC 2114.

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: “, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate.”.

*Ante*, p. 2077.

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: “In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.”; and

(2) by adding at the end of subsection b. (1) the following new sentence: “In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.”.

## URANIUM SUPPLY

Comprehensive  
 industry review,  
 submittal to  
 Congress.  
 42 USC 2210b  
 note.

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The Comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;



- (D) the size of domestic and foreign ore reserves;
- (E) present and projected domestic uranium exploration expenditures and plans;
- (F) present and projected employment and capital investment in the uranium industry;
- (G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;
- (H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);
- (I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);
- (J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and
- (K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

**"SEC. 170B. URANIUM SUPPLY.—**

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

Report to  
Congress and  
President.  
42 USC 2210b.

42 USC 2231

Regulations.

Proprietary  
information,  
disclosure.

Criteria.

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

Imported  
material, impact  
on domestic  
industry and  
national  
security.

"d. The Secretary or Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

Investigations

"(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

“(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.”.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.R. 2330 (S. 1207):

HOUSE REPORTS No. 97-22, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce), No. 97-884 (Comm. of Conference)

SENATE REPORT No. 97-113 accompanying S. 1207 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Oct. 19, Nov. 5, considered and passed House.

Vol. 128 (1982): Mar. 22, 30, S. 1207 considered in Senate.  
Mar. 30, H.R. 2330 considered and passed Senate, amended  
Oct. 1, Senate agreed to conference report.  
Dec. 2, House rejected conference report; receded and concurred in Senate amendment with an amendment  
Dec. 16, Senate agreed to House amendment.

Public Law 97-416  
97th Congress

An Act

Jan. 4, 1983  
[H.R. 6120]

To reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984.

Deep Seabed  
Hard Mineral  
Resources Act,  
amendment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended by striking out the period at the end and inserting in lieu thereof a comma and the following: "and \$1,469,000 for the fiscal year ending September 30, 1983, and \$2,150,000 for the fiscal year ending September 30, 1984."*

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.R. 6120:

HOUSE REPORTS: No. 97-522, Pt. 1 (Comm. on Merchant Marine and Fisheries), Pt. 2 (Comm. on Interior and Insular Affairs), and Pt. 3 (Comm. on Foreign Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 13, considered and passed House.

Dec. 19, considered and passed Senate.

Public Law 97-417  
97th Congress

An Act

To provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes.

Jan. 4, 1983  
[H.R. 6804]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 705 of title 14, United States Code, is amended by adding a new subsection (f) as follows:

Coast Guard  
officer  
candidates,  
subsistence  
allowances.

“(f) A member of the Coast Guard Reserve not on active duty who is enrolled in an officer candidate program authorized by section 600 of title 10 leading to a commission in the Coast Guard Reserve, and is a full-time student in an accredited college curriculum leading to a bachelor’s degree may be paid a subsistence allowance for each month of the member’s academic year at the same rate as that prescribed by section 209(a) of title 37.”.

SEC. 2. That title 14, United States Code, is amended as follows:

(1) Section 41 is amended by inserting “commodores,” after “rear admirals;”.

14 USC 41.

(2) Subsection (b) of section 42 is amended by striking out “0.75;” and inserting in lieu thereof “.375; commodore .375;”.

14 USC 42.

(3) Subsections (a) and (b) of section 256 are each amended by striking out “rear admiral” and inserting in lieu thereof “commodore”.

14 USC 256

(4) Subsection (b) of section 259 is amended by striking out “rear admiral” and inserting in lieu thereof “commodore”.

14 USC 259.

(5) Section 271 is amended—

14 USC 271

(A) by inserting a comma after “may” in subsection (c);

(B) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(C) by adding after subsection (c) the following new subsection:

“(d) When a vacancy in the grade of rear admiral occurs, the senior commodore serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.”.

(6) Subsection (d) of section 275 is repealed.

14 USC 275.

(7) Subsection (a) of section 288 is amended by striking out “rear admiral” and inserting in lieu thereof “commodore”.

14 USC 288.

(8) Subsection (a) of section 289 is amended to read as follows:

14 USC 289.

“(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of commodore or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years’ service in that grade and who have not been selected for promotion to the grade of commodore. Officers who are subject to

14 USC 288

retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.”.

14 USC 290.

(9)(A) Section 290 is amended—

(i) by amending the catch line thereof to read as follows:

**“§ 290. Rear admirals and commodores; continuation on active duty; involuntary retirement”;**

and

(ii) by amending subsection (a) to read as follows:

“(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of commodore or rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral or in the position of Chief of Staff are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Board shall be convened frequently enough to assure that each officer serving in the grade of commodore or rear admiral is subject to consideration for continuation during a promotion year in which he completes not less than four or more than five years combined service in the grades of commodore and rear admiral.”.

(B) The item relating to section 290 in the table of sections at the beginning of chapter 11 is amended to read as follows:

“290. Rear admirals and commodores; continuation on active duty; involuntary retirement.”.

14 USC 421

(10) Subsection (b) of section 421 is amended by striking out “rear admiral” and inserting in lieu thereof “commodore”.

Repeal.

14 USC 462a.

(11) Section 462a is repealed.

14 USC 724.

(12) Subsection (b) of section 724 is amended—

(A) by striking “rear admiral” in the first sentence and inserting in lieu thereof “commodore”; and

(B) by striking “grade of rear admiral” in the last sentence and inserting in lieu thereof “combined grades of commodore and rear admiral”.

14 USC 729

(13) Subsection (e) of section 729 is amended—

(A) by striking “the grade of rear admiral” and substituting “the grades of commodore and rear admiral”; and

(B) by inserting “for promotion to the grade of commodore” after “consideration”.

14 USC 736

(14) Subsection (b) of section 736 is amended to read as follows:

“(b) Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.”.

14 USC 740

(15) Subsection (a)(2) of section 740 is amended by striking “rear admiral” and substituting “commodore”.

14 USC 742.

(16) Subsection (b) of section 742 is amended by inserting “or commodore” after “rear admiral”.

14 USC 743.

(17)(A) Section 743 is amended to read as follows:

**“§ 743. Rear admiral and commodore; maximum service in grade**

“Unless retained in or removed from an active status under any other law, a Reserve rear admiral or commodore shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and commodore.”.

(B) The item relating to section 743 in the table of sections at the beginning of chapter 21 is amended to read as follows:

“743. Rear admiral and commodore; maximum service in grade.”.

SEC. 3. (a) Section 202 of title 37, United States Code, is amended to read as follows:

**“§ 202. Pay grades: commodores, retired list**

“An officer of the Coast Guard holding a permanent appointment in the grade of commodore on the retired list, and who in time of war or national emergency has served satisfactorily on active duty for two years in that grade or in a higher grade, is entitled when on active duty to the basic pay of a rear admiral.”.

(b) The item relating to section 202 in the table of sections at the beginning of chapter 3 of title 37 is amended to read as follows:

“202. Pay grades; commodores, retired list.”.

SEC. 4. (a) An officer of the Coast Guard who on the day before the effective date of this Act—

14 USC 271 note.

(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

(2) was serving on active duty in the grade of admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

(b) An officer who on the day before the effective date of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

(c) An officer who on the day before the effective date of this Act was on an approved list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

(d) An officer who on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

(e) An officer of the Coast Guard who on the day before the effective date of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled after that date to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act—

(1) was serving on active duty, and

(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.R. 6804:

HOUSE REPORT No. 97-789 (Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed House.

Dec. 16, considered and passed Senate.



Public Law 97-418  
97th Congress

An Act

To amend title 3, United States Code, to clarify the function of the United States Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes.

Jan. 4, 1983

[H. R. 6254]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 202(7)(C) of title 3, United States Code, is amended by inserting “may be provided for motorcades and at other places associated with such a visit and” after “protection”.

U S Secret  
Service  
Uniformed  
Division,  
foreign  
diplomatic  
missions

(b) Section 208(b) of title 3, United States Code, is amended to read as follows:

“(b) There is authorized to be appropriated, in addition to such sums as have been heretofore appropriated under this section—

“(1) \$7,000,000 for each fiscal year beginning after September 30, 1982, for the payment of reimbursement obligations entered into under subsection (a) after such date; and

“(2) \$17,700,000 for the payment of reimbursement obligations entered into under subsection (a) before October 1, 1982.

Amounts appropriated under this subsection shall remain available until expended.”.

SEC. 2. The amendments made by the first section of this Act shall take effect on the date of enactment of this Act, except that no amount authorized to be appropriated by the amendment made by subsection (b) of the first section of this Act may be made available for use or obligation prior to October 1, 1982.

Effective date  
3 USC 202 note

SEC. 3. In order to assure effective security at the United States mission to the United Nations, and to promote efficient use of

Report to  
Congress

**Federal security resources, the Secretary of the Treasury and the Secretary of State shall consult with the Secretary of the Navy with regard to placement of Marine security guard services within such mission and shall report thereon to the Congress not later than sixty days after the date of enactment of this Act.**

Approved January 4, 1983.

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**LEGISLATIVE HISTORY—H.R. 6254:**

HOUSE REPORT No. 97-533 (Comm. on Public Works and Transportation)  
CONGRESSIONAL RECORD, Vol. 128 (1982):

June 15, considered and passed House.  
Dec. 19, considered and passed Senate.

Public Law 97-419  
97th Congress

Joint Resolution

To authorize and request the President to designate the month of December 1982 as  
“National Closed-Captioned Television Month”.

Jan. 4, 1983  
[S.J. Res. 258]

Whereas the Congress has officially proclaimed 1982 as the National Year of Disabled Persons;

Whereas hearing-handicapped Americans of all ages traditionally have suffered isolation from society and too often have unwillingly ended up as burdens to society rather than participating citizens;

Whereas the recent telecommunications breakthrough of “closed captioning” now enables these people to read on the television screen what they cannot hear and thus share—for the first time in history—that wealth of information, entertainment, and language so abundantly absorbed by the general public;

Whereas the innovative service, provided through the nonprofit and tax-exempt National Captioning Institute (NCI), represents the culmination of almost ten years of technological research and development, market exploration, and cooperation between government, industry, and community;

Whereas the nationwide service which began in March 1980 on ABC, NBC, and PBS is already proving to open up new educational horizons and new avenues toward equal opportunity for this severely disadvantaged population, particularly its children and youth;

Whereas hearing-impaired citizens have personally invested over \$17,000,000 to date for purchase of decoding devices;

Whereas many Members of the Congress have long been actively supporting development, implementation, and expansion of the closed-captioned television service which is the first of its kind anywhere in the world; and

Whereas President Reagan, referring to the closed captioning of his inaugural ceremonies and televised addresses to the Nation, has stated: “I feel very honored to be the first President in history to have spoken directly to people who had never before experienced this historic tradition”: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States is authorized and requested to issue a proclamation

National Closed-  
Captioned  
Television  
Month.

designating the month of December 1982 as “National Closed-Captioned Television Month” in recognition of this invaluable new service for deaf and hard-of-hearing American citizens, and calling on the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved January 4, 1983.

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**LEGISLATIVE HISTORY—S.J. Res. 258:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 3, considered and passed Senate.

Dec. 20, considered and passed House.

Public Law 97-420  
97th Congress

Joint Resolution

Designating January 17, 1983, as "Public Employees' Appreciation Day".

Jan. 4, 1983

[H.J. Res. 619]

**Whereas public employees have made great contributions to American society in many areas including health care, crime prevention, science, transportation, agriculture, housing, energy, and the national defense;**

**Whereas public employees are the often forgotten individuals who make government run smoothly;**

**Whereas professionals in the public work force provide continuity and security in government operations in times of national emergency and stress;**

**Whereas the merit system of employing public employees has provided our Federal, State, and local governments with the finest public work force in the world; and**

**Whereas the Congress of the United States recognizes the dedication, talents, and contributions made by public employees at all levels of government: Now, therefore, be it**

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 17, 1983, is designated as "Public Employees' Appreciation Day" and the President is requested to issue a proclamation inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that day with appropriate ceremonies and activities.***

Public  
Employees'  
Appreciation  
Day.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.J. Res. 619:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.

Public Law 97-421  
97th Congress

Joint Resolution

Jan. 4, 1983  
[H.J. Res. 630]

To commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Missouri.

Whereas 1983 marks the sesquicentennial anniversary of the founding of Greene County, Missouri;

Whereas Greene County, named for the distinguished Revolutionary War hero, General Nathanael Greene, has enjoyed a long and distinguished history, and has contributed many of its sons and daughters to hold high public office and otherwise serve the State of Missouri and our Nation;

Whereas in 1833 Greene County included all of southwest Missouri and remains today the cultural and economic hub of that part of Missouri; and

Whereas Greene County is the third most populous county in the State of Missouri and continues to grow and prosper: Now, therefore, be it

Greene County,  
Mo.  
One hundred  
and  
fiftieth  
anniversary  
commemoration.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation commemorating January 3, 1983, as the one hundred and fiftieth anniversary of the founding of Greene County, Missouri, and to transmit an enrolled copy of such proclamation to the Governor of the State of Missouri, and the presiding judge of Greene County, Springfield, Missouri.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.J. Res. 630:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 17, considered and passed House.  
Dec. 23, considered and passed Senate.

Public Law 97-422  
97th Congress

An Act

To name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project as the Don H. Clausen Fish Hatchery.

Jan 4, 1983

[H.R. 7420]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1173), as modified by section 95 of the Water Resources Development Act of 1974 (88 Stat. 40), shall hereafter be known as the "Don H. Clausen Fish Hatchery". Any law, regulation, map, document, or record of the United States in which such fish hatchery is referred to shall be held and considered to refer to such fish hatchery as the "Don H. Clausen Fish Hatchery". This Act shall take effect on January 4, 1983.

Don H. Clausen  
Fish Hatchery.

76 Stat. 1180.

Effective date.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.R. 7420:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.

Public Law 97-423  
97th Congress

An Act

Jan. 4, 1983  
[H.R. 7406]

To designate a certain Federal building in Springfield, Illinois the "Paul Findley Building".

Paul Findley  
Building.  
Designation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Federal building located at 600 East Monroe in Springfield, Illinois is hereby designated as the "Paul Findley Building". Any reference in any law, regulation, document, record, map or other paper of the United States to such building shall be considered to be a reference to the Paul Findley Building.

Effective date.

SEC. 2. This bill shall take effect on January 3, 1983.

Approved January 4, 1983.

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LEGISLATIVE HISTORY—H.R. 7406:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 17, considered and passed House.  
Dec. 21, considered and passed Senate.



Public Law 97-424  
97th Congress

An Act

To authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

Jan. 6, 1983

[H.R. 6211]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Surface Transportation Assistance Act of 1982”*

Surface  
Transportation  
Assistance Act of  
1982.  
23 USC 101 note.  
Highway  
Improvement  
Act of 1982.

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the “Highway Improvement Act of 1982”.

23 USC 101 note.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE  
INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out “the additional sum of \$3,225,000,000 for the fiscal year ending September 30, 1984,” and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: “the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1987, and the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1990.”

*Ante*, p. 1611.

MINIMUM APPORTIONMENT

SEC. 103. (a) For each of the fiscal years 1984, 1985, 1986, and 1987, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

23 USC 104 note.

*Ante*, p. 1611.  
23 USC 104 note.

(b) Section 4(b) of the Federal-Aid Highway Act of 1982 is repealed.

#### OBLIGATION CEILING

23 USC 104 note.

SEC. 104. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

- (1) \$12,100,000,000 for fiscal year 1983;
- (2) \$12,750,000,000 for fiscal year 1984;
- (3) \$13,550,000,000 for fiscal year 1985; and
- (4) \$14,450,000,000 for fiscal year 1986.

23 USC 144 note.  
95 Stat. 1701.  
95 Stat. 1672; 40  
USC 818.

These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981 or section 118 of the National Visitor Center Facilities Act of 1968. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(b) For each of the fiscal years 1983, 1984, 1985, and 1986, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for fiscal year 1983, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1983, 1984, 1985, and 1986, revise a distribution of the funds made available under subsection (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by this Act and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

95 Stat. 1699.  
23 USC 101 note.

(e)(1) Section 1106(b) of the Omnibus Budget Reconciliation Act of 1981 is repealed.

23 USC 104 note.

(2) Section 1106(c) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

“(c) For the fiscal year 1982, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned to all the States for such fiscal year.”

(3) Section 1106(d) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “periods” and inserting in lieu thereof “period” and by striking out “and October 1 through December 31, 1982,”.

(4) Section 1106(e)(2) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out “and after August 1, 1983,”.

#### AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, \$1,850,000,000 (reduced by the amount authorized by the first sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$2,100,000,000 for the fiscal year ending September 30, 1984, \$2,300,000,000 for the fiscal year ending September 30, 1985, and \$2,450,000,000 for the fiscal year ending September 30, 1986. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, \$650,000,000 (reduced by the amount authorized by the second sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$650,000,000 for the fiscal year ending September 30, 1984, \$650,000,000 for the fiscal year ending September 30, 1985, and \$650,000,000 for the fiscal year ending September 30, 1986.

*Ante*, p. 1611.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, \$800,000,000 (reduced by the amount authorized by section 4(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$800,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(3) For Indian reservation roads, out of the Highway Trust Fund, \$75,000,000 for the fiscal year ending September 30, 1983, and \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(4) For the Virgin Islands, all such sums as may be required for the continued presence and operation of the office of the territorial representative of the Federal Highway Administration in St. Thomas, Virgin Islands.

St. Thomas, V.I.

(5) For parkways and park highways, out of the Highway Trust Fund, \$75,000,000 for the fiscal year ending September 30, 1983 and

\$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

*Ante*, p. 1611.

(6) For the forest highways, out of the Highway Trust Fund, \$50,000,000 (reduced by the amount authorized by section 4(a)(3) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(7) For public lands highways, out of the Highway Trust Fund, \$50,000,000 (reduced by the amount authorized by section 4(a)(4) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

Repeal.

92 Stat. 2715.

(b) Section 151 of the Federal-Aid Highway Act of 1978 is repealed.

(c) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system in excess of the amount apportioned to such State under section 104(b)(1) of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to those priority primary routes designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives.

(d) Of the sums apportioned to each State under subsections (a)(1) and (a)(2) of this section for each fiscal year, beginning with fiscal year 1984, not less than 40 per centum of such program funds shall be expended by such State on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highways unless the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification. The requirement of the preceding sentence shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of title 23, United States Code, or for advance construction funding under section 115 of title 23, United States Code.

*Ante*, p. 1611.

(e) Section 4(a) of the Federal-Aid Highway Act of 1982 is amended by striking out "a joint resolution making continuing appropriations for such fiscal year," and inserting in lieu thereof "Public Law 97-276,".

(f) Except to the extent that the Secretary determines otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

#### INTERSTATE RESURFACING

95 Stat. 1699.

SEC. 106. Section 105 of the Surface Transportation Assistance Act of 1978 is amended by striking out "and not to exceed \$800,000,000 for the fiscal year ending September 30, 1984." and inserting in lieu thereof "not to exceed \$1,950,000,000 for the fiscal year ending September 30, 1984, not to exceed \$2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed \$2,800,000,000 for the fiscal

year ending September 30, 1986, and not to exceed \$3,150,000,000 for the fiscal year ending September 30, 1987."

#### INTERSTATE TRANSFERS

SEC. 107. (a)(1) Section 103(e)(4) of title 23, United States Code, is amended by striking out the eighth sentence and inserting in lieu thereof the following: "For the fiscal year ending September 30, 1983, \$257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and \$700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, and September 30, 1985, and \$725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985, and September 30, 1986. There are authorized to be appropriated for liquidation of obligations incurred under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal

Substitute  
highway project  
funds.

Cost estimate,  
transmittal to  
Congress.

Revised cost  
estimate,  
transmittal to  
Congress.

49 USC 1603.  
Substitute  
transit project  
funds.

Cost estimate,  
transmittal to  
Congress.

Revised cost  
estimate,  
transmittal to  
Congress.

share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986.”

(2) Section 103(e)(4) of title 23, United States Code, is amended by striking out the sixth sentence and inserting in lieu thereof the following: “The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States.”

(b) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following: “Any route or segment thereof which was statutorily designed after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.”

(c)(1) Section 103(e)(4) of title 23, United States Code, is further amended by—

(A) inserting in the second sentence after the words “approved by Congress,” the following: “or up to and including the 1983 interstate cost estimate, whichever is earlier,”;

(B) striking out in the second sentence “the date of enactment of the Federal-Aid Highway Act of 1976 or” and “whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate”;

(C) inserting in the second sentence after “approval of each substitute project under this paragraph,” the following: “or the date of approval of the 1983 interstate cost estimate, whichever is earlier,”.

23 USC 103 note.

(2) Notwithstanding any other provision of law, with respect to any route or portion thereof on the Interstate System approval of which is or has been withdrawn under section 103(e)(4) of title 23, United States Code, in any case where the sum determined under the second sentence of such section is less than the cost to complete the withdrawn route or portion (in accordance with the design of such route or portion on the date of such withdrawal) as of June 30, 1980, as a result of decreases in construction costs, the sum which shall be available to the Secretary under such sentence shall be an amount equal to such cost of completion as of June 30, 1980.

(d) The third sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out the period and inserting in lieu thereof the following: “, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985.”

(e)(1) The first sentence of section 103(e)(4) of title 23, United States Code is amended by striking “which is within an urbanized

area or which passes through and connects urbanized areas within a State and”.

(2) The second sentence of section 103(e)(4) of title 23, United States Code is amended by striking “which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located.” and inserting in lieu thereof, “which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located.”.

(f) The first sentence of section 122 of title 23, United States Code, is amended to read as follows: “Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects.”.

Bond proceeds  
for project  
construction,  
payment claims.

(g) Section 107(e) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: “For purposes of this subsection, the term ‘construction’ has the meaning such term has under section 101(a) of title 23, United States Code.”.

“Construction.”  
23 USC 103 note.

#### FEDERAL-AID PRIMARY FORMULA

SEC. 108. (a) Notwithstanding section 104(b)(1) of title 23, United States Code, and any other provision of law, amounts authorized for fiscal years 1983, 1984, 1985, and 1986 for the Federal-aid primary system (including extensions in urban areas and priority primary routes) shall be apportioned in accordance with this section. The Secretary of Transportation shall determine for each State the higher of (1) the amount which would be apportioned to such State under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be apportioned to such State under the following formula:

Apportionment.  
23 USC 104 note.

One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each

State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(b) The Secretary of Transportation shall, for each of the fiscal years 1983, 1984, 1985, and 1986, determine the total of the amounts determined for each State under subsection (a) and shall determine the ratio which the total amount authorized for such fiscal year for the Federal-aid primary system bears to the total of such amounts determined under subsection (a) for such fiscal year.

(c) The amount which shall be apportioned to each State for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for each of the fiscal years 1983, 1984, 1985, and 1986 shall be the amount determined for such State under subsection (a), multiplied by the ratio determined under subsection (b).

(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 of this title, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

(e) Amounts apportioned under this section shall be deemed to be amounts apportioned under section 104(b)(1) of title 23, United States Code, for purposes of such title and all other provisions of law. Terms used in this section shall have the same meaning such terms have in chapter 1 of title 23, United States Code.

(f) Section 103(b)(1) of title 23, United States Code, is amended by striking out "or Puerto Rico" and inserting in lieu thereof "Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

#### ENERGY IMPACTED ROADS

SEC. 109. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects."

23 USC 103.

23 USC 101 *et seq.*

Projects,  
priority.



(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

“(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.”.

Project cost,  
Federal share.  
*Post*, p. 2110.

#### RESURFACING STANDARDS

SEC. 110. (a) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

“(o) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.”.

(b) The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards currently in effect for construction and reconstruction of highways, other than highways access to which is fully controlled, to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects on such highways, which study shall include a study of the cost effectiveness of the hot dip galvanizing process for the installation, repair, or replacement of exposed structural and miscellaneous steel, and (2) to propose standards to preserve and extend the service life of such highways and enhance highway safety. The National Academy of Sciences shall conduct such study in cooperation with the National Transportation Safety Board, the Congressional Budget Office, and the American Association of State Highway and Transportation Officials. Upon completion of such study, the National Academy of Sciences shall submit such study and its proposed standards to the Secretary of Transportation for review. Within ninety days after submission of such standards to the Secretary of Transportation, the Secretary shall submit such study and the proposed standards of the National Academy of Sciences, together with the recommendations of the Secretary, to Congress for approval.

Study and  
proposed  
standards.  
23 USC 109 note.

Review.

Submittal to  
Congress.

(c)(1) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, and other organizations as deemed appropriate, (A) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (B) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (C) to determine the manpower needs and costs of developing a national system for the evaluation and accreditation of testing and inspection agencies.

National Bureau  
of Standards and  
American  
Society for  
Testing and  
Materials, study  
determinations.  
23 USC 109 note.

(2) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section.

Submittal to  
Congress.

## VENDING MACHINES

23 USC 111 note.

SEC. 111. Notwithstanding section 111 of title 23, United States Code, before October 1, 1983, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the National System of Interstate and Defense Highways in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines under this Section, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under title 23, United States Code.

## LETTING OF CONTRACTS

SEC. 112. Section 112 of title 23, United States Code, is amended—

(1) in subsection (b) by striking out “unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest” and inserting in lieu thereof “unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective”; and

(2) in subsection (e) by striking out the period at the end and inserting in lieu thereof the following: “, except where employees of a political subdivision of a State are working on a project outside of such political subdivision.”.

## CONSTRUCTION IN ADVANCE OF APPORTIONMENT

SEC. 113. (a) Section 115(b)(2) of title 23, United States Code, is amended by striking out “1978” each place it appears and inserting in lieu thereof “1983”.

Project cost,  
Federal share.

(b) Section 115(b) of title 23, United States Code, is amended by adding at the end thereof the following:

“(3) Subject to the provisions of this paragraph, the cost of construction of a project, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of such bonds have actually been expended in the construction of such project. In no event shall the amount of interest considered as a cost of construction of a project under the preceding sentence be greater than the excess of (A) the amount which would be the estimated cost of construction of the project if the project were to be constructed at the time the project is converted to a regularly funded project, over (B) the actual cost of construction of such project (not including such interest). The Secretary shall consider changes in construction cost indices in determining the amount under clause (A) of this paragraph.”.

(c) Section 115(a) of title 23, United States Code, is amended to read as follows:

“(a)(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4), 104, or 144 of this title, other than

Interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

“(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

“(B) the project conforms to the applicable standards adopted under section 109 of this title.

“(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.”.

(d) Section 115(c) of title 23, United States Code, is amended by striking “104” and inserting in lieu thereof “103(e)(4), 104, or 144”.

#### MAINTENANCE

SEC. 114. The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: “If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.”.

#### INTERSTATE DISCRETIONARY FUNDS

SEC. 115. (a) Section 118(b) of title 23, United States Code, is amended to read as follows:

“(b)(1) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse.

“(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for

high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(3) Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System to any other State applying for such funds, if the Secretary determines that the State has obligated all of its apportionments under such subsection other than an amount which, by itself, is insufficient to pay the Federal share of the cost of such a project which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them to a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

"(4) Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure."

"(b) Section 118 of title 23 United States Code is amended by relettering subsections (c) and (d) as subsections (e) and (f), respectively, and by adding after subsection (b) thereof the following new subsections:

"(c) Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1983, the Secretary shall set aside \$300,000,000. Such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

"(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(2) of this section."

## INTERSTATE SYSTEM RESURFACING TRANSFERS

SEC. 116. (a)(1) Section 119(a) of title 23, United States Code, is amended by inserting after the first sentence the following: "In addition to projects approved under the preceding sentence, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before the date of enactment of this sentence under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title."

92 Stat. 2692.

*Ante*, p. 2101.

(2) The last sentence of section 119(a) of title 23, United States Code, is amended by striking out "designated under sections 103 and 139(c) of this title" and inserting in lieu thereof "under this subsection".

(3) The last sentence of section 139(a) of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that any State may use funds available to it under section 104(b)(1) of this title and, beginning with funds apportioned for fiscal year 1984, under section 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any route or portion thereof on the Interstate System on which a project may be approved under the second sentence of section 119(a) of this title."

(b) The last subsection of section 119 of title 23, United States Code, is relettered as subsection (c).

(c) Section 119 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection."

## FEDERAL SHARE

SEC. 117. (a) Section 120(c) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection."

(b) Section 120(d) of title 23, United States Code, is amended by inserting "or for pavement marking" after "signalization" and by adding at the end thereof the following: "The Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project."

(c) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of this section (other than subsection (i)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under sections 143, 148, and 155, of this title and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

"(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

"(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law."

#### FRINGE AND CORRIDOR PARKING

SEC. 118. Section 137 of title 23, United States Code, is amended by inserting the following new subsection (f):

"(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

"(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

"(3) For the purposes of this subsection, the terms 'facilities' and 'parking facilities' are synonymous and shall have the same meaning given 'parking facilities' in subsection (c) of this section."

Fees.

"Facilities" and  
"parking  
facilities."

#### NONDISCRIMINATION

SEC. 119. (a) The first and third sentences of subsection (a) of section 140 of title 23, United States Code, are amended by striking the words "or national origin" and inserting in lieu thereof the words "national origin, or sex".

(b) Section 140 of title 23, United States Code, is amended by adding new subsection (c) as follows:

“(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)).”

(c) The title of section 140 of title 23, United States Code, is amended to read as follows:

**“§ 140. Nondiscrimination”**

and the analysis of chapter 1 of title 23, United States Code, is amended by striking out

“140. Equal employment opportunity.”

and inserting in lieu thereof

“140. Nondiscrimination.”

**PUBLIC TRANSPORTATION**

SEC. 120. (a) The last sentence of section 142(a)(1) of title 23, United States Code, is amended by inserting “and the cost of providing shuttle service to and from the facility” after “of the facility” and by inserting “and for providing such shuttle service” after “operating the facility”.

(b) Section 142 of title 23, United States Code, is amended as follows:

(1) In subsection (a)(1) in the first sentence the words “bus lanes” and insert in lieu thereof “high occupancy vehicle lanes” and delete the words “bus and other” and insert in lieu thereof “high occupancy vehicle and”.

(2) In subsection (b) delete the word “bus” and insert in lieu thereof “high occupancy vehicle”.

(3) In subsection (f) delete the words “public mass transportation systems” and insert in lieu thereof “high occupancy vehicles”.

**BRIDGE PROGRAM APPORTIONMENT**

SEC. 121. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

“(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall

Annual data  
update.

Effective date.  
23 USC 144 note.

be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually.”.

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of section 144 of title 23, United States Code, as soon as practical after the date of enactment of this Act, the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983.

#### HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION

SEC. 122. (a) Subsection (g) of section 144 of title 23, United States Code, is amended by inserting after “(g)” the following: “(1)”. Such subsection is further amended by striking out the fourth and fifth sentences and by adding at the end thereof the following:

“(2) Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, by section 5(a)(1) of the Federal-Aid Highway Act of 1982 and section 202(1) of the Highway Safety Act of 1982, all but \$200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. \$200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such \$200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than \$10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than \$10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.”.

*Ante*, p. 1612.  
*Post*, p. 2137.

Expenditure  
requirement,  
reduction.

(b) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to relocate and replace (1) any bridge across a river located on a two-



lane Federal-aid highway which is in a slide area, in a flood plain, and in the vicinity of and north of Cloverdale, California, together with (2) all highways and approaches required as a result of such relocation and replacement.

(c) Notwithstanding section 144 of title 23, United States Code, and any other provision of law, the Secretary of Transportation may approve under such section 144 (including subsection (g)) a project to replace the LaSalle Peru Bridge which is part of a complete replacement of United States 51 in a new location.

#### CARPOOL AND VANPOOL PROJECTS

SEC. 123. (a) Section 120(d) of title 23, United States Code, is amended by inserting before “, may amount to 100 per centum” the following: “or for commuter carpooling and vanpooling”

(b) The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978.

23 USC 146 note.

23 USC 146 note.

#### ALLOCATION OF URBAN FUNDS

SEC. 124. Section 150 of title 23, United States Code, is amended by adding the following sentence at the end thereof: “Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.”

#### HAZARD ELIMINATION PROGRAM EXTENSION

SEC. 125. Subsection (c) of section 152 of title 23, United States Code, is amended to read as follows:

“(c) Funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System).”

#### FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 126. (a) Section 202 of title 23, United States Code, is amended to read as follows:

##### “§ 202. Allocations

“(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

“(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the

renewable resource and land use planning for the various national forests.

"(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

"(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

"(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior."

(b) Section 204 of title 23, United States Code, is amended to read as follows:

**"§ 204. Federal Lands Highways Program**

Establishment.

"(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of this title.

Construction and improvement funds.

"(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

Contracts.

Indian labor.

Projects on Indian reservation roads.

"(c) Before approving as a project on an Indian reservation road any project on a Federal-aid system in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

State and local cooperation.

"(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

“(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the “Buy Indian” Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

Construction by  
contracts

36 Stat. 861.  
25 USC 47.  
25 USC 450e.

“(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

“(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

Transfer of  
funds.

“(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.”

(c)(1) The twelfth undesignated paragraph of section 101(a) of title 23, United States Code, defining the term “park roads and trails”, is amended to read as follows:

“Park road.”

“The term ‘park road’ means a public road that is located within or provides access to an area in the national park system.”

(2) The tenth undesignated paragraph of section 101(a) of title 23, United States Code, defining the term “Indian reservation roads and bridges” is amended by striking out “The term ‘Indian reservation roads and bridges’ means roads and bridges, including roads and bridges” and inserting in lieu thereof “The term ‘Indian reservation roads’ means public roads, including roads”.

“Indian  
reservation  
roads.”

(3) Section 101(a) of title 23, United States Code, is amended by adding after the third undesignated paragraph, defining the term “county”, the following:

“Federal lands  
highways.”

“The term ‘Federal lands highways’ means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.”

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

Repeals.

(e) The analysis of chapter 2 of title 23, United States Code, is amended—

(1) by striking out

“202. Apportionment for allocation.”

and inserting in lieu thereof

“202. Allocations.”;

(2) by striking out

“204. Forest highways.”

and inserting in lieu thereof

“204. Federal lands highways program.”;

and

(3) by striking out

"206. Park roads and trails.  
 "207. Parkways.  
 "208. Indian reservation roads.  
 "209. Public lands highways."

and inserting in lieu thereof

"206. Repealed.  
 "207. Repealed.  
 "208. Repealed.  
 "209. Repealed."

(f) Sections 201 and 203 of title 23, United States Code, are amended by striking out "park roads and trails" wherever it appears and inserting in lieu thereof "park road".

#### BICYCLE TRANSPORTATION

SEC. 126. Section 217 of title 23, United States Code, is amended to read as follows:

##### **"§ 217. Bicycle transportation and pedestrian walkway**

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(c) For all purposes of this title, a pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such pedestrian walkway project shall be 100 per centum.

Federal share  
 payable on  
 walkway project.

“(d) For all purposes of this title, a bicycle project authorized by subsection (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project shall be 100 per centum.

Federal share payable on bicycle project.

“(e) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways in conjunction with such trails, roads, highways, and parkways.

“(f) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle routes.

“(g) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

Motorized vehicle prohibition.

“(h) Not more than \$45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a), (b), (e), and (f) of this section. No State shall obligate more than \$4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year.”

Appropriation authorization.  
Waiver.

#### PARKING RAMPS AND FRONTAGE ROADS

SEC. 127. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding before the last sentence thereof a new sentence as follows: “Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, asso-

23 USC 101 note.

ciated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimate and shall be included as eligible projects in any future interstate cost estimate.”.

- 23 USC 101 note. (b) Notwithstanding the provisions of section 108(b) of the Federal-Aid Highway Act of 1956, as amended, the Secretary of Transportation may approve the expenditure of funds authorized under such section for the construction of a previously approved project which provides for improvements to and reconstruction of ramps and service roads which are being developed as part of a roadway system to relieve a severely congested segment on an Interstate route. Such expenditures shall be limited (1) to work necessary to provide more effective and safe operation of such Interstate route, and (2) to a section of an Interstate route which proceeded to construction contract prior to the date of enactment of such Act and which Interstate route, together with service roads, was constructed without the expenditure of any funds authorized by such section.

#### PROJECT ELIGIBILITY

- 23 USC 101 note. SEC. 128. In any case where a project involving a Federal-aid primary route not on the Interstate System, and a route on the Interstate System which was originally constructed without the expenditure of any funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and was subsequently added to the Interstate System, both occupying a common alignment and having elements which have been approved in concept by the Secretary of Transportation as part of a project providing for the upgrading of an interchange on such Interstate route, the cost of improvements in the vicinity of the interchange necessary to upgrade the safety of that part of such Federal-aid primary route not on a common alignment with such Interstate route in an environmentally acceptable manner shall be eligible for the expenditure of funds authorized by such section 108(b).
- 23 USC 101 note.

#### ACCELERATION OF PROJECTS

- 23 USC 105 note. SEC. 129. The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976.
- 23 USC 124 note.

#### FOUR-LANE BRIDGES

- 23 USC 144 note. SEC. 130. Whenever any law of the United States, enacted after January 1, 1970, and before the date of enactment of this Act, authorizes payment, in financing the relocation of an existing road, for the cost of construction of a two-lane bridge with a substructure and deck truss capable of supporting a four-lane bridge, payment for the cost of completing the construction of such bridge as a four-lane

bridge is authorized upon the completion of such substructure and deck truss.

#### DEMONSTRATION PROJECTS

SEC. 131. (a)(1) The Secretary of Transportation is authorized to carry out a demonstration project in Los Angeles County, California, for the purpose of demonstrating methods of improving the motor vehicle transportation of freight to and from areas for the transshipment of waterborne commerce.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed \$19,000,000 for the fiscal year ending September 30, 1983, not to exceed \$19,000,000 for the fiscal year ending September 30, 1984, and not to exceed \$20,000,000 for the fiscal year ending September 30, 1985.

Appropriation  
authorization.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

23 USC 101 *et seq.*

(b)(1) The Secretary of Transportation shall carry out a highway project to demonstrate state of the art technology which can be applied to a section of highway the construction of which will close a gap of not more than 10 miles in a multi-lane limited access approach road through hilly terrain connecting a city (not directly connected to the Interstate System by such an approach road) with a route on such System on which tolls are charged. For comparison purposes, the highway section shall connect both highway construction using current technology and older completed highway construction. The project shall demonstrate the latest high-type geometric design features and new advances in highway traffic control and safety hardware. All design elements, including the highway pavement, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance costs. The Secretary of Transportation shall provide necessary technical assistance in the design and construction of the project. Upon completion of the project, the highway shall be added to the Federal-aid primary system.

Highway design  
and  
construction,  
state of the art  
technology.

Technical  
assistance.

(2) Not later than one year, six years and eleven years after the completion of the state of the art technology project, the Secretary of Transportation shall submit reports to the Congress, including but not limited to the results of such project, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other highway projects, and any changes that may be necessary by law to permit further use of such features.

Reports to  
Congress.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed \$5,000,000 for the fiscal year ending September 30, 1983, \$10,000,000 for the fiscal year ending September 30, 1984, and \$62,000,000 for the fiscal year ending September 30, 1985. Such funds shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation. The Federal share payable for the state of the art technology project shall be 100 per centum.

Appropriation  
authorization.

23 USC 101 *et seq.*  
Federal share.

Highway repair  
methods.

(c)(1) The Secretary of Transportation shall conduct a project to demonstrate state of the art methods of repairing damaged highways, and preventing damage to highways, resulting from shoreline erosion. Such project shall be carried out in the vicinity of Buhne Point, Humboldt Bay, California, at a cost not to exceed \$9,000,000 for fiscal years beginning after September 30, 1982, out of the Highway Trust Fund.

(2) The Secretary of Transportation may enter with the heads of other departments, agencies, and instrumentalities of the Federal Government into such arrangements as may be necessary to carry out the provisions of this subsection.

Report to  
Congress.

(3) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than 180 days after completion of such project.

23 USC 101 *et*  
*seq.*

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

Traffic  
congestion  
reduction  
project.

(d)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of East Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

Appropriation  
authorization.

(2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed \$5,000,000 for the fiscal years beginning after September 30, 1982.

(3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(e)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of Louisville, Kentucky, for the purpose of demonstrating methods of accelerating construction of high traffic sections of highways on the Federal-aid primary system which are directly connected to the Interstate System.

Report to  
Congress.

(2) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project carried out under this subsection not later than 180 days after completion of such project.

Appropriation  
authorization.

(3) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed \$25,000,000 for the fiscal year ending September 30, 1983, and not to exceed \$27,000,000 for the fiscal year ending September 30, 1984. Any amount obligated after December 1, 1982, and before the date of enactment of this Act for a project described in paragraph (1) of this subsection from funds apportioned under section 104 of title 23, United States Code, may be deobligated and funds authorized by this subsection may be obligated for such project in place of such deobligated amounts. Any amounts deobligated under the preceding sen-



tence shall be recredited to the State's apportionment from which such amounts were obligated.

(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

Federal share of cost.

23 USC 101 *et seq.*

(f)(1) The Secretary of Transportation, in cooperation with the State of Vermont, shall carry out a project to demonstrate the feasibility of reducing the time and the cost required to complete highway projects, other than projects on the Interstate System, in areas that require improved access between rapidly growing suburban areas and established urban core areas, by extending the coverage of State certifications under section 117(a) of title 23 of the United States Code, to any Federal law, regulation, or policy that applies to such projects.

Highway completion, time and cost reduction.

(2) In implementing this subsection, the Secretary shall review applications for projects submitted by the State of Vermont with respect to which the State agrees to assume the responsibility of the Secretary with regard to any such Federal law, regulation, or policy. The Secretary shall be deemed to have fulfilled his responsibility under such law, regulation, or policy, provided that—

Application review. State's responsibilities.

(A) the Secretary finds that the State has procedures which are sufficient to assure that the project will be carried out in accordance with the provisions of such law, regulation, or policy;

(B) the State highway department is authorized and consents to accept the jurisdiction of the Federal courts in any suit brought to enforce any such Federal law or regulation; and

(C) the State highway department certifies that the project has been carried out in accordance with the procedures specified under subparagraph (A) of this paragraph.

(3) In carrying out the demonstration project authorized under this subsection, the Secretary may continue to discharge his responsibilities directly with respect to those laws, regulations, and policies for which he finds State procedures are not sufficient.

(4) In implementing this subsection, the Secretary shall consider the procedures developed pursuant to section 141 of the Federal-Aid Highway Act of 1976, as amended, and shall encourage the State to carry out its responsibilities in cooperation with appropriate political subdivisions of the State.

23 USC 124 note.

(5) There is authorized to be appropriated out of the Highway Trust Fund to carry out the project authorized under this subsection a sum not to exceed \$50,000,000.

Appropriation authorization.

(6) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

23 USC 101 *et seq.*

(7) Not later than six months after the completion of such project, the Secretary shall submit a report to Congress which includes, but is not limited to, a description of the methods used to accomplish the project and the changes, if any, required to adopt expanded certification. The report should also contain recommendations for applying the methods to other highway projects, and any changes to existing

Report to Congress.

Wave erosion prevention, construction techniques.	law which may be necessary to permit more widespread use of expanded certification acceptance. (g)(1) The Secretary of Transportation is authorized to carry out demonstration projects in and around Devils Lake, North Dakota, for the purpose of demonstrating construction techniques to prevent wave erosion on closed basin lakes with grade level highway crossings.
Appropriation authorization.	(2) The Secretary is authorized to reimburse from funds authorized by paragraph (3) the State of North Dakota for funds previously expended on projects described in paragraph (1). (3) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this subsection not to exceed \$4,500,000 for the fiscal year ending September 30, 1983.
23 USC 101 <i>et seq.</i>	(4) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall not exceed 75 per centum of the total cost thereof and such fund shall remain available until expended.
Appropriation authorization.	(h)(1) The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid urban system for the construction of a high level bridge over a high volume intercoastal waterway segment. The project shall demonstrate the reduced congestion resulting in the downtown area from the construction of such bridge which serves a major port. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system. (2) There is authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, not to exceed \$23,000,000 for the fiscal year ending September 30, 1983. Such sums shall remain available until expended.
Report to Congress.	(3) In carrying out this subsection, the Secretary shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this bridge. (4) The Secretary shall report to Congress upon completion of this project the results of this demonstration project, together with any recommendations the Secretary deems necessary.
Appropriation authorization.	(i)(1) The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a demonstration project on a primary segment of highway experiencing a high incidence of truck accidents and a project to demonstrate cooperation between two railroads and a small urban area. The highway project shall include an analysis of factors contributing to truck accidents such as weather conditions, sight distance, road curvature, roadway width, and gradient and shall also include an analysis of the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents. The railroad crossing project shall demonstrate the benefits of having no railroad through the center of a small urban community.
Federal share of cost.	(2) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this subsection not to exceed \$8,500,000. (3) Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under

this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(4) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than 180 days after completion of such project.

Report to  
Congress.

(j)(1) The Secretary of Transportation shall conduct a demonstration project in the State of Illinois for the purpose of demonstrating the benefits of constructing usable segments of high-volume facilities, developing methods to achieve the effective implementation of massive capital investments made under Federal programs being discontinued.

(2) There are authorized to be appropriated to carry out this subsection, out of the Highway Trust Fund, \$25,000,000 for each fiscal year beginning after September 30, 1982, and ending before October 1, 1986. Such sums shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation. The Federal share of the cost of any project under this subsection shall be 50 per centum of the total cost thereof.

Appropriation  
authorization.

23 USC 101 *et*  
*seq.*

#### FEDERAL SHARE OF BRIDGE PROJECTS

SEC. 132. Notwithstanding any other provision of law, during the two-year period beginning on the date of enactment of this section, with respect to any project in the State of Tennessee for the replacement or rehabilitation of a bridge which is wholly funded from state and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is certified by the State to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after July 1, 1982, from such State and local sources for such project in excess of 20 per centum of the cost of construction thereof may be credited to the non-Federal share of the cost of other projects in such State which are eligible for Federal funds under such section 144, in accordance with procedures established by the Secretary.

#### VEHICLE WEIGHT, LENGTH, AND WIDTH LIMITATIONS

SEC. 133. (a) Section 127 of title 23 of the United States Code is amended to read:

##### “§ 127. Vehicle weight limitations—Interstate System

“(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement

70 Stat. 374.

tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

“(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.”

#### MARTIN LUTHER KING BRIDGE

SEC. 134. The Martin Luther King Bridge which crosses the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, and is not on a Federal-aid system shall be eligible for assistance under section 144 of title 23, United States Code, to the same extent that any other bridge which is not on a Federal-aid

system is eligible for assistance under such section, except that no such assistance shall be made available with respect to such bridge until such bridge—

- (1) has been transferred to one or both of the States of Missouri and Illinois;
- (2) is freed from tolls; and
- (3) otherwise meets the eligibility requirements of such section, and the rules and regulations promulgated thereunder.

#### MANPOWER STUDY

SEC. 135. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences' Transportation Research Board to conduct a comprehensive study and investigation of future transportation professional manpower needs, including but not limited to prevailing methods of recruitment, training, and financial and other incentives and disincentives which encourage or discourage retention in service of such professional manpower by Federal, State, and local governments. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than two years after the enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to the Academy at its request any information which the Academy deems necessary for the purpose of conducting the study and investigation authorized by this section.

23 USC 101 note.

Report to  
Secretary and  
Congress.

#### FERRYBOAT STUDY

SEC. 136. The Office of Technology Assessment shall conduct a comprehensive investigation and study of the feasibility of a high speed ferryboat operation over the waters of the Caribbean Sea between Saint Croix and Saint Thomas in the Virgin Islands in accordance with this section. The Department of Transportation, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and all other agencies, offices, and instrumentalities of the United States shall assist the Office in conducting an objective investigation and study of such projected operation. The Office shall evaluate this projected operation for its feasibility under various degrees of commercial and government sponsorship. The Office shall complete and transmit a report on such investigation and study to the Congress no later than January 1, 1984.

Report to  
Congress.

#### STUDY OF FACTORS IN APPORTIONMENT FORMULAS

SEC. 137. (a) The Secretary of Transportation shall study and determine the need for including weather-related factors, particularly the effects of freezing and thawing, in the apportionment formulas for Federal-aid highways under section 104 of title 23, United States Code. The Secretary shall report to Congress not later than four months after the date of enactment of this Act on the results of such study and shall include in such report specific recommendations for changing such apportionment formulas to take into account weather-related factors.

Report to  
Congress.

Federal  
financial  
assistance,  
distribution  
procedures.

(b)(1) The Secretary of Transportation shall make a full and complete study regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service. The study shall analyze current conditions and factors including, but not limited to, volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and other pertinent factors that can be utilized to determine the most equitable and efficient method of apportioning such Federal financial assistance to the several States. In conducting the study the Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution.

(2) In conducting this study the Secretary shall consult with other agencies of the Federal Government, the States and their political subdivisions, and other interested private organizations, groups, and individuals.

Report to  
Congress.

(3) The Secretary shall report to Congress not later than four months after the date of enactment of this section the results of such study together with recommendations for necessary legislation.

#### REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

Submittal to  
Congress.  
49 USC 2315  
note.

SEC. 138. (a) Within one year after the date of enactment of this Act, the Secretary of Transportation, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs, if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a national intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

Definitions.

(b) For the purposes of this section—

(1) the term “longer combination commercial motor vehicles” means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) the term “national intercity truck route network” means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this Act.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following:

(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service; except that the Secretary of Transportation

shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles;

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this Act; and

(7) an analysis of the effect of the size and weight limitations as in effect after the date of enactment of this Act.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary of Transportation shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

Single- and tandem-axle weight limits.

(e) In making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

(f) Nothing in this section shall be construed to establish Federal policy with regard to highway vehicle weight and size standards, nor shall anything in this section be construed to preempt or to affect any State law establishing highway vehicle weight or size standards. The provisions of this section require an investigation and study on the feasibility and propriety of making changes in vehicle weight and size standards which the Congress may choose to consider in the future.

Vehicle weight and size standards.

Investigation and study.

#### CHANGE IN LOCATION OF INTERSTATE SEGMENTS

SEC. 139. (a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, the Secretary of Transportation may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under section 103(e) of title 23, United States Code; (2) it is

23 USC 101 note.  
95 Stat. 1700.  
23 USC 101 note.

23 USC 101 note. serving Interstate travel as of the date of enactment of this section; (3) it requires improvements which are eligible under the Federal-Aid Highway Act of 1981, and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective. The cost of the construction of such Interstate route or segment on new location with funds available under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 interstate cost estimate as approved by the Congress. Such cost shall be increased or decreased, as determined by the Secretary, based on changes in construction costs of the original location of the route or segment as of the date of approval of each project on the new location. Upon approval of a new location, and funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

23 USC 103 note. (b) Where the Secretary of Transportation approves a relocation of an Interstate route or segment under the provisions of subsection (a) of this section, such route or segment shall not be eligible for withdrawal under the provisions of section 103(e)(4) of title 23, United States Code, and shall be subject to the Interstate System completion deadlines provided in subsections (d) and (e) of section 107 of the Surface Transportation Assistance Act of 1978 or subject to Interstate System completion deadlines as may be determined by Congress.

#### ACCESS CONTROL DEMONSTRATION PROJECTS

23 USC 307 note. SEC. 140. Section 150(b) of the Federal-Aid Highway Act of 1978 is amended by striking out "1983" and inserting in lieu thereof "1985".

#### REVISION OF PROJECT AGREEMENT

SEC. 141. Notwithstanding any other provision of law, as a condition of reimbursement of the Federal share of the cost of Federal-aid project 23-D-U-54 (100) in New Jersey, the Secretary of Transportation and the New Jersey Department of Transportation shall revise the project agreement for such project to make available financial assistance not to exceed \$1,000,000 for the purpose of compensating businesses in the general vicinity of such project that have suffered monetary losses as a result of the temporary bypass established to accommodate the construction of the project.

#### INNOVATIVE TECHNOLOGIES

23 USC 119 note. SEC. 142. (a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materi-



als conserve energy and reduce the cost of resurfacing or restoring our highways.

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

(c) The Secretary shall establish a procedure within ninety days of the date of enactment of this Act for increasing the Federal share under this section.

#### ENFORCEMENT OF HEAVY VEHICLE USE TAX

SEC. 143. (a) Section 141 of title 23, United States Code, is amended by adding subsection (d) as follows:

“(d) The Secretary shall reduce the State’s apportionment of Federal-aid highway funds under section 104(b)(5) of this title in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.”.

26 USC 4481.

#### MONITORING OF EFFECT OF DOUBLE BOTTOM TRUCKS

SEC. 144. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to monitor the effects on the National System of Interstate and Defense Highways of the use of trucks with two trailing units, in light of the amendments made by this Act providing that no State shall prohibit the use of such vehicle combinations. Such monitoring shall include, but need not be limited to, determining the effects of the use of such vehicle combinations on highways and highway safety in urban and rural areas and in different regions of the country, taking into account differences in age and design features of highways on the Interstate System.

49 USC 2315  
note.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit a report to the Secretary and the Congress of such monitoring, not later than two years after appropriate arrangements are entered into under subsection (a). The Secretary shall furnish to the Academy, at its request, any information which the Academy deems necessary for the purpose of conducting such monitoring.

Report to  
Secretary and  
Congress.

## TEMPORARY MATCHING FUND WAIVER

23 USC 104 note.

SEC. 145. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

"Qualifying project."

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, plus the amount, if any, available to such State under section 150 of this Act, pertaining to minimum allocation, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

23 USC 104 note.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

Reapportionment.

(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (d).

## LANE RESTRICTIONS

SEC. 146. The State of California shall not restrict or require the restriction of the use of any lane on any Federal-aid highway in the unincorporated areas of Alameda County, California, to high occupancy vehicles, exclusive of approaches to controlled access highways, toll roads, or bridges.

## UPGRADING CERTAIN INTERCHANGES

SEC. 147. Notwithstanding any other provision of law, in the case of any portion of a route on the Interstate System in the State of California which is open to traffic and which has less than two through lanes in either direction in the area where such route connects with a limited access highway on the Federal-aid primary system, a project to improve the portion of the Interstate route to a design of six lanes and to upgrade the interchange between such Interstate route and primary route to accommodate such design shall be eligible for funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, as if the costs of such project were included in the 1981 interstate cost estimate and shall be included as an eligible project in the 1983 interstate cost estimate and any later interstate cost estimate.

23 USC 101 note.

## CONVICT LABOR

SEC. 148. Section 114(b) of title 23, United States Code, is amended by inserting after "Convict labor" the following: "or materials produced by convict labor".

## PREVAILING RATE OF WAGE

SEC. 149. Section 113(a) of title 23, United States Code, is amended by striking out "initial".

## MINIMUM ALLOCATION

SEC. 150. (a) Chapter 1 of title 23, United States Code is amended by adding at the end thereof the following new section:

**"§ 157. Minimum allocation**

23 USC 157.

"(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

23 USC 130 note.

"(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus the three succeeding fiscal years, shall be subject to the provisions of this title 23 and may be obligated for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under

*Ante*, p. 2098.

this section, except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of the Highway Improvement Act of 1982.

“(c) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, such sums as may be necessary for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.”

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

“157. Minimum allocation.”

#### DEMONSTRATION PROJECTS-RAIL HIGHWAY CROSSINGS

23 USC 130 note.

SEC. 151. Section 163(p) of the Federal-Aid Highway Act of 1973, as amended, is amended by inserting after “1982,” the following: “and \$50,000,000 for the fiscal year ending September 30, 1983, and \$50,000,000 for the fiscal year ending September 30, 1984, and \$50,000,000 for the fiscal year ending September 30, 1985, and \$50,000,000 for the fiscal year ending September 30, 1986,” and by adding at the end thereof the following: “Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization.”

#### STUDY OF METHANE CONVERSION FOR HIGHWAY FUEL USE

23 USC 307 note.

SEC. 152. The Secretary of Transportation shall study, out of any funds available to the Secretary of Transportation for research purposes, the potential for recovering methane which is released in the process of offshore oil drilling and converting such methane on a floating conversion plant located at the drilling site into methanol for use as a fuel for highway vehicles. Such study shall include, but need not be limited to, a determination of the quality and quantity of the methane which is released at offshore drilling sites at various locations and the costs involved in recovering such methane and converting it in the manner described in the preceding sentence. The Secretary shall also determine the permitting requirements which would apply to such floating conversion plants and the most effective way to implement those permitting requirements. The Secretary shall report to the Congress the results of the study under this section not later than one year after the date of enactment of this Act.

Report to Congress.

#### EMERGENCY RELIEF

SEC. 153. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof the following: “An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic

failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration.”

(2) Subsection (a) of section 125 of title 23, United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendments made by paragraph (1) of this subsection, after the word “appropriated” the words “from the Highway Trust Fund”.

(b) Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.

23 USC 125 note.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words “after September 30, 1976,” the words “and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,”.

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: “*Provided*, That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed \$30,000,000 in any State.”.

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

23 USC 125 note.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as follows:

Federal share.

“(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, ‘a comparable facility’ shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.”.

“A comparable facility.”

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

23 USC 120 note.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words “the Federal-aid highway systems, including the Interstate System” and by inserting in lieu thereof the words “the Interstate System, the Primary System, and on any

routes functionally classified as arterials or major collectors,” in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the words “on any of the Federal-aid highway systems” and inserting in lieu thereof the words “routes functionally classified as arterials or major collectors”.

#### HIGHLAND SCENIC HIGHWAY

87 Stat. 279.

SEC. 154. Section 161(f) of the Federal-Aid Highway Act of 1973 is amended to read as follows:

“(f) The Highland Scenic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest for scenic and recreational purposes. Vehicle use shall be confined to passenger cars, recreational vehicles, and limited truck traffic to the extent such use is compatible with the purpose for which the highway was constructed. Commercial use by trucks shall be limited and controlled by permit.”.

#### DEFENSE ACCESS ROAD

SEC. 155. Section 210(c) of title 23, United States Code, is amended by striking “Not exceeding \$5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)”, and inserting in lieu thereof “Funds appropriated for defense maneuvers and exercises”.

#### RESEARCH AND PLANNING

SEC. 156. (a) Subsection (c) of section 307, title 23, United States Code, is amended by adding paragraph (5) as follows:

“(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.”.

(b) Subsection (c)(2) of section 307, title 23, United States Code, is amended by striking “1964” and inserting in lieu thereof “1983”, and by striking “section 104” and inserting in lieu thereof “sections 104 and 144”.

Federal share.

(c) Section 120 of title 23, United States Code, is amended by adding a subsection (i) as follows:

“(i) The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.”.

(d) Section 307(c)(1) of title 23, United States Code, is amended by adding in the last sentence after “highways and highway systems” the words “and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing,”.

## ALASKA HIGHWAY

SEC. 158. Subsection (a) of section 218 of title 23, United States Code, is amended by adding after the second sentence the following: "Notwithstanding any other provision of law, in addition to such funds, upon agreement with the State of Alaska, the Secretary is authorized to expend on such highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to projects authorized by the preceding sentence."

## DEFINITION

SEC. 159. The definition of the term "construction" in section 101(a), title 23, United States Code, is amended by striking the period at the end thereof and inserting in lieu thereof the following: "and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program."

## REPORTS

SEC. 160. (a) Section 307 of title 23, United States Code, is amended by adding a new subsection (e) as follows:

Submittal to Congress.

"(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation."

(b) Section 3 of Public Law 89-139, 79 Stat. 578, August 28, 1965, and section 17 of the Federal-Aid Highway Act of 1968 are hereby repealed.

Repeals.  
23 USC 101  
notes.  
82 Stat. 823.

## DISCRETIONARY BRIDGE CRITERIA

SEC. 161. The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act, including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code. Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

23 USC 144 note.

(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);

(2) average daily traffic using the most current value from the national bridge inventory data;

(3) average daily truck traffic;

(4) defense highway system status;

(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

(6) total project cost; and

Additional bridges.

(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

#### WITHDRAWAL AND DESIGNATION OF CERTAIN INTERSTATE ROUTES

SEC. 162. (a) Notwithstanding the first sentence of section 103(e)(4) of title 23, United States Code, the Secretary of Transportation shall, upon application of the State of New Jersey, withdraw under such section 103(e)(4) his approval of the designation on the National System of Interstate and Defense Highways of the portion of Interstate Route 95 and Interstate Route 695 from the intersection with Interstate Route 295 in Hopewell Township, Mercer County, New Jersey, to the proposed intersection with Interstate Route 287 in Franklin Township, Somerset County, New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed, pursuant to section 103 of such title, to designate as part of the Interstate Highway System the New Jersey Turnpike from exit 10 to the interchange with the Pennsylvania Turnpike and the Pennsylvania Turnpike from such interchange to and including the proposed interchange with Interstate Route 95 in Bucks County, Pennsylvania.

(c) The Secretary of Transportation is further authorized and directed to designate the highways described in subsection (b) as Interstate Route 95 and assure through proper sign designations the orderly connection of Interstate Route 95 pursuant to this section.

#### USE OF HIGH OCCUPANCY LANES

23 USC 146 note.

SEC. 163. Notwithstanding any provision of this Act or any other law, no funds shall be appropriated for the construction or resurfacing of Federal aid highways which have lanes designated as carpool lanes unless the use of such lanes includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, the State may restrict such use by motorcycles if such use would create a safety hazard.

#### INFRASTRUCTURE STUDY

SEC. 164. (a) The Committee on Public Works and Transportation is authorized to contract for the design and preparation of a National Public Works Inventory and Assessment and a preliminary analysis of relevant, existing data.

(b) The Committee on House Administration shall make available not more than \$3,000,000 for the purpose specified in subsection (a).

#### BUY AMERICA

23 USC 101 note.

SEC. 165. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel, cement, and manufactured products used in such project are produced in the United States.

49 USC 1601

note.

23 USC 101 note.



(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of bus and other rolling stock (including train control, communication, and traction power equipment) under the Urban Mass Transportation Act of 1964, that (A) the cost of components which are produced in the United States is more than 50 per centum of the cost of all components of the vehicle or equipment described in this paragraph, and (B) final assembly of the vehicle or equipment described in this paragraph has taken place in the United States;

49 USC 1601  
note.

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum in the case of projects for the acquisition of rolling stock, and 25 per centum in the case of all other projects.

(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, the Surface Transportation Assistance Act of 1978, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

23 USC 101 note.

(e) Section 401 of the Surface Transportation Assistance Act of 1978 is repealed.

Repeal.  
23 USC 101 note.  
49 USC 1602  
note.  
Highway Safety  
Act of 1982.

## TITLE II

### SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1982".

23 USC 401 note.

### HIGHWAY SAFETY AUTHORIZATIONS

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, \$1,600,000,000 (reduced by the amount authorized by section 5(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$1,650,000,000 for the fiscal year ending September 30, 1984, \$1,750,000,000 for the fiscal year ending September 30, 1985, \$2,050,000,000 for the fiscal year ending September 30, 1986.

*Ante*, p. 1612.

(2) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, \$200,000,000 (reduced by the amount authorized by section 5(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, \$200,000,000 for the fiscal year ending September 30, 1984, \$200,000,000 for the fiscal year ending September 30, 1985, and \$200,000,000 for the fiscal year ending September 30, 1986.

## HIGHWAY SAFETY

Appropriation  
authorization.

SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.

(2) Out of the funds authorized to be appropriated under paragraph (1) of this subsection for each of the fiscal years ending September 30, 1985, and September 30, 1986, not less than \$20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the fifty-five-miles-per-hour speed limit established by section 154 of such title.

Safety belt  
usage.

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed \$10,000,000, per fiscal year for each of such fiscal years.

95 Stat. 626.

(c) Section 202 of the Highway Safety Act of 1978 is amended as follows:

(1) Paragraph (2) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986."

(2) Paragraph (3) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986."

(3) Paragraph (5) is amended by striking out "and September 30, 1984." and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986."

(d) Of the funds authorized to be appropriated by section 202(3) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1982, which have not been obligated for expenditure before the date of enactment of this Act, \$9,600,000 shall not be available for obligation, and shall no longer be authorized, on and after such date of enactment.

## 55 M.P.H. BENEFITS STUDY

23 USC 154 note.

SEC. 204. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of (1) the benefits, both human and economic, of lowered speeds due to the enactment of the 55 mile per hour National Maximum Speed Limit, with particular attention to savings to the taxpayers, and (2) whether the laws of each State constitute a substantial deterrent to violations of the maximum speed limit on public highways within

such State. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than twelve months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

Report to  
Secretary and  
Congress.

#### RAIL-HIGHWAY CROSSINGS

SEC. 205. The first sentence of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87), as amended, is amended by inserting "and" after "1979," and by striking out "and September 30, 1982" and all that follows through the period at the end of such sentence and inserting in lieu thereof "September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986."

23 USC 130 note.

#### PUBLIC INFORMATION

SEC. 206. Section 209 of the Highway Safety Act of 1978 is amended by striking out "acting through the Administrator of the Federal Highway Administration," each place it appears, in subsection (g) by striking out "Federal Highway Administration to" and inserting in lieu thereof "Secretary of Transportation to", and by adding at the end of such section the following new subsection: "(i) All provisions of chapter 1 of title 23, United States Code, that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section."

23 USC 401 note.

23 USC 101 *et seq.*

#### SAFETY PERFORMANCE REPORTS

SEC. 207. The Secretary of Transportation shall prepare, publish, and submit to Congress not later than December 31 of each calendar year beginning after December 31, 1982, a report on the highway safety performance of each State in the preceding calendar year. Such report shall provide data on highway fatalities and injuries and motor vehicle accidents involving fatalities and injuries and travel in urban areas of each State for each system of highways and in rural areas of such State for each system of highways. Such report shall be in such form and contain such other information on highway accidents as will permit an evaluation and comparison of highway safety performance of the States. For purposes of this section (1) the systems of highways in a State are the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System (as such terms are defined in section 101 of title 23, United States Code) and the other highways in such State which are not on the Federal-aid system, and (2) the terms "State", "rural areas", and "urban area" have the meaning such terms have under such section 101.

Submittal to  
Congress.  
23 USC 401 note.

Definitions.

## ANNUAL APPORTIONMENT FORMULA

**SEC. 208.** The sixth sentence of section 402(c) of title 23, United States Code, is amended by striking out “, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment”.

## MINIMUM DRINKING AGE

23 USC 408 note.

**SEC. 209.** The Congress strongly encourages each State to prohibit the sale of alcoholic beverages to persons who are less than 21 years of age.

Federal Public  
Transportation  
Act of 1982.

## TITLE III

## SHORT TITLE

49 USC 1601  
note.

**SEC. 301.** This title may be cited as the “Federal Public Transportation Act of 1982”.

## AUTHORIZATIONS OF APPROPRIATIONS

49 USC 1618.  
*Post*, p. 2154.

**SEC. 302.** (a) The Urban Mass Transportation Act of 1964 is amended by striking out sections 21 and 22 and inserting in lieu thereof the following new section:

## “AUTHORIZATIONS OF APPROPRIATIONS

49 USC 1617.  
*Post*, p. 2141; 49  
USC 1614.

“**SEC. 21.** (a)(1) There is hereby authorized to be appropriated to carry out the provisions of sections 9 and 18 of this Act not to exceed \$2,750,000,000 for the fiscal year ending September 30, 1984, \$2,950,000,000 for the fiscal year ending September 30, 1985, and \$3,050,000,000 for the fiscal year ending September 30, 1986, and funds appropriated under this subsection shall remain available until expended.

*Post*, p. 2147.

“(2)(A) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9A and 18 of this Act \$779,000,000 for fiscal year 1983.

49 USC 1602,  
1603, 1607, 1612.

“(B) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 3, 4(i), 8, and 16(b) of this Act \$1,250,000,000 for fiscal year 1984, \$1,100,000,000 for fiscal year 1985, and \$1,100,000,000 for fiscal year 1986.

“(C) Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under subparagraphs (A) and (B) of this paragraph shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

49 USC 1614.

“(3) In fiscal year 1983, 2.93 per centum of the amount made available from the Mass Transit Account of the Highway Trust Fund under paragraph (2) of this subsection shall be available to carry out section 18 of the this Act.

“(4) In each of fiscal years 1984, 1985, and 1986, 2.93 per centum of the amount appropriated from the general fund of the Treasury under paragraph (1) of this subsection shall be available to carry out section 18 of this Act and shall remain available until expended.

49 USC 1607.

“(5) Of the funds available for obligation under paragraph (2)(B), \$50,000,000 shall be used in each of fiscal years 1984, 1985, and 1986 for the purposes of section 8 of this Act. Nothing herein shall

prevent the use of additional funds available under this subsection for planning purposes.

"(b) There is hereby authorized to be appropriated to carry out sections 6, 10, 11(a), 12(a), and 20 of this Act not to exceed \$86,250,000 for the fiscal year ending September 30, 1983, \$86,000,000 for the fiscal year ending September 30, 1984, and \$90,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended."

49 USC 1605,  
1607b, 1607c,  
1608, 1616.

(b) The second sentence of section 4(a) of such Act is amended by striking out "80 per centum" and inserting in lieu thereof "75 per centum".

49 USC 1603.

(c) Section 4(c)(3)(A) of such Act is amended by inserting "and" after "September 30, 1981;" and by striking out "; and \$1,580,000,000 for the fiscal year ending September 30, 1983".

(d) Section 4(f) of such Act is amended by striking out "18, 21, and 22," and inserting in lieu thereof "and 18,".

(e) Section 4(g) of such Act is amended by striking out "such sums as may be necessary" and inserting in lieu thereof "not to exceed \$365,000,000 for the fiscal year ending September 30, 1983, \$380,000,000 for the fiscal year ending September 30, 1984, \$390,000,000 for the fiscal year ending September 30, 1985, and \$400,000,000 for the fiscal year ending September 30, 1986,".

#### BLOCK GRANTS

SEC. 303. (a) The Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new sections:

#### "BLOCK GRANTS

"SEC. 9. (a)(1) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 8.64 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000.

49 USC 1607a.  
*Ante*, p. 2140.

"(2) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 88.43 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.

"(b)(1) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be available for expenditure in urbanized areas of 200,000 population or more in accordance with this subsection.

"(2) 95.61 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

"(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

"(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

## Definitions.

No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this subsection, the terms 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(3) 4.39 per centum of the amount made available for expenditure among urbanized areas of 200,000 population or more under paragraph (1) of this section shall be apportioned as follows: in the ratio that the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all such urbanized areas. No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph.

"(c)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be available for expenditure in urbanized areas with a population of 200,000 or more in accordance with this subsection.

"(2) 90.8 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

"(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

"(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

"(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

"(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized areas will be entitled to receive an amount equal to the sum of—

Apportionment  
formula.

“(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

“(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

“(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

“(3) 9.2 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned among urbanized areas of 200,000 population or more as follows: in the ratio that the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in all such urbanized areas.

Apportionment  
ratio.

“(d) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

Apportionment  
formula.

“(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

“(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term ‘density’ means the number of inhabitants per square mile.

“Density.”

“(e)(1) The provisions of sections 3(e), 3(f), 3(g), 5(k)(3), 12(c), 13, and 19 shall apply to this section and to every grant made under this section. No other condition, limitation, or other provision of this Act, other than as provided in this section, shall be applicable to this section and to grants for programs of projects made under this section.

49 USC 1602,  
1604, 1608, 1609,  
1615.

“(2) To receive a grant under this section for any fiscal year, a recipient shall, within the time specified by the Secretary, submit a final program of projects prepared pursuant to subsection (f) and the certifications required by paragraph (3).

Grant recipients.

“(3) Each recipient (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a certification that such recipient—

Certification,  
annual  
submittal to  
Secretary.

“(A) has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;

“(B) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment, and will maintain such facilities and equipment;

“(C) will comply with requirements of section 5(m) of this Act;

“(D) will give the rate required by section 5(m) of this Act to any person presenting a medicare card duly issued to that

42 USC 401,  
1395.

person pursuant to title II or title XVIII of the Social Security Act;

“(E) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with applicable Buy America provisions;

“(F) has complied with the requirements of subsection (f);

“(G) has available and will provide the required amount of funds in accordance with subsection (k)(1) of this section and will comply with the requirements of sections 8 and 16 of this Act; and

“(H) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

49 USC 1607,  
1612.

Proposed project  
program.  
Information  
availability to  
public.

“(f) Each recipient shall—

“(1) make available to the public information concerning the amount of funds available under this subsection and the program of projects that the recipient proposes to undertake with such funds;

“(2) develop a proposed program of projects concerning activities to be funded in consultation with interested parties, including private transportation providers;

“(3) publish a proposed program of projects in such a manner to afford affected citizens, private transportation providers, and as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed program of projects and on the performance of the recipient; and

Hearing.

“(4) afford an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects.

In preparing the final program of projects to be submitted to the Secretary, the recipient shall consider any such comments and views, particularly those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed program of projects. The final program of projects shall be made available to the public.

Reviews and  
audits.

“(g)(1) The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether—

“(A) the recipient has carried out its activities submitted in accordance with subsection (e)(2) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

“(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the applicable requirements of this Act and other applicable laws.

Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

“(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and consistency of actual program activities with the proposed program



of projects required under subsection (e)(2) of this section and the planning process required under section 8.

49 USC 1607.

“(3) The Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary’s findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary’s review, evaluation, and audits under this subsection.

“(4) No grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to subsection (e) of this section.

“(h) The provisions of section 1001 of title 18, United States Code, apply to any certification or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 of title 18, United States Code, is made in connection with a certification of submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

False or fraudulent statements.

“(i) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such system for use for all procurements financed under this section. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (e)(3)(E) is still required.

“(j) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service, including the renovation and improvement of a historic transportation facility with related private investment. As used in this section, the term ‘associated capital maintenance items’ means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

Grants.

“Associated capital maintenance items.”

“(k)(1) The Federal grant for any construction project (including capital maintenance items) under this section shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

Federal grant.

“(2) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(A), (2)(A), and (3)(A) of section 5(a) of this Act to an urbanized area with a population of 1,000,000 or more, 90 per centum of funds so apportioned to an urbanized area with a population of 200,000 or more and less than 1,000,000 population; and 95 per centum of funds so apportioned to an urbanized area of less than 200,000 population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time

49 USC 1604.

under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

49 USC 1604.

"(3) Notwithstanding any other provision of law, the amount of funds apportioned under section 5 of this Act and available for operating assistance in fiscal year 1983 in an urbanized area shall be subject to the limitations set forth in paragraph (2) of this subsection. Subject to the limitation in the preceding sentence, funds apportioned under section 5(a)(4) of this Act in fiscal year 1983 may be used for operating assistance.

Apportionment  
for capital  
assistance,  
transfer.

"(1)(1)(A) Notwithstanding the provisions of subsection (k)(1), any recipient may, in fiscal years 1983 and 1984, transfer, for use for operating assistance, a portion of its apportionment under this section that otherwise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

"(B) Notwithstanding any other provision of law, a recipient may use its capital apportionment under section 5(a)(4) of this Act in fiscal year 1983 for purposes of carrying out a transfer under this subsection. No source of capital assistance under this Act (other than under section 5(a)(4)) may be used for such a transfer in such fiscal year.

"(2) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a proposed program of projects to the Secretary under subsection (e)(2)—

Public notice.

"(A) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and

Three-year plan.

"(B) certify that it has developed a three-year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportionment for operating assistance.

Discretionary  
grants.

"(3) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be available to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to any urbanized area that is apportioned an amount under this section in fiscal year 1983 which is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 4(a).

49 USC 1603.

Authority  
termination.

"(4) The authority of recipients to use the provisions of this paragraph shall terminate on September 30, 1984.

“(m)(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of 200,000 or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term ‘designated recipient’ shall refer to a recipient selected according to the procedures required by this section or to a recipient designated in accordance with section 5(b)(1) of this Act prior to the date of enactment of this section.

49 USC 1607.

“Designated recipient.”

49 USC 1604.

“(2) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) shall be made available to the Governor for expenditure in urbanized areas with populations of less than 200,000.

“(n)(1) The Governor may transfer an amount of the State’s apportionment under subsection (d) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to subsection (d). The Governor may transfer an amount of the State’s apportionment under section 18(a) to supplement funds apportioned to the State under subsection (d). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.

49 USC 1614.

“(2) A designated recipient for an urbanized area of 200,000 or more population may transfer its apportionment under this section, or a portion thereof, to the Governor. The Governor shall distribute any such apportionment to urbanized areas in the State, including areas of 200,000 or more population, in accordance with this section. Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionment of such amounts.

Distribution to urbanized areas.

“(o) Sums apportioned under this section shall be available for obligation by the recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.

#### “MASS TRANSIT ACCOUNT DISTRIBUTION

“SEC. 9A. (a)(1) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal year 1983, 8.64 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with a population of less than 200,000.

49 USC 1607a-1.

*Ante*, p. 2140.

“(2) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal

year 1983, 88.43 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with 200,000 population or more.

“(b)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be apportioned among urbanized areas with 200,000 population or more as follows:

“(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

“(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

“(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

“(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

“(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

“(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

“(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

“(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

“(2) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be apportioned among urbanized areas of 200,000 population or more as follows:

“(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

“(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this paragraph, the terms 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

Definitions.

"(c) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

"Density."

"(d)(1) The provisions of subsections (e), (f), (g), (h), (i), (m), and (n) of section 9 of this Act shall apply to grants made under this section.

Grants.

"(2)(A) Grants under this section shall be made for the purposes described in subsection (j) of section 9 of this Act, except that such grants may not be used for payment of operating expenses.

Ante, p. 2141.

"(B) The Federal grant for any project under this section shall not exceed 80 per centum of the net project cost of such project.

"(3) The provisions of subsection (o) of section 9 shall apply to grants made under this section, except that amounts remaining unobligated at the end of the 3-year period shall be added to the amount available under section 3 for the succeeding fiscal year."

#### EXISTING CAPITAL GRANT PROGRAM

SEC. 304. (a) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 is amended—

49 USC 1602.

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(iii) sufficient capability to maintain the facilities and equipment."

(b) Section 3(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all

related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code.

“(6) In making grants under this section in fiscal year 1983, the Secretary shall, to the extent practicable, emphasize projects that are labor intensive and that can begin construction or manufacturing within the shortest possible time.”

49 USC 1611.

49 USC 1604.  
*Ante*, p. 2141.

(c) Section 15(b) of the Urban Mass Transportation Act of 1964 is amended by striking out “section 5” and inserting in lieu thereof “section 5 or 9”.

#### LETTERS OF INTENT

SEC. 305. Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended—

49 USC 1602.

(1) by inserting after the first sentence thereof the following: “At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.”;

(2) by striking out “in section 4(c)” and inserting in lieu thereof the following “to carry out section 3”; and

*Ante*, p. 2140.

(3) by adding at the end thereof the following: “Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Federal Public Transportation Act of 1982 should be funded under this section while not precluding the funding of a portion of such projects using section 9 capital funds unless such funding would impair the recipient’s ability to fund routine capital projects under such section. Notwithstanding the provisions of section 4(a), the Federal share of the total project cost of any project under this section covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date), shall not be altered.”.

#### RESEARCH AND TRAINING GRANTS

SEC. 306. (a) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended by striking out “September 30, 1981, and September 30, 1982” and inserting in lieu thereof “and September 30, 1981, \$5,000,000 for the fiscal year ending September 30, 1984, and \$10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986”.

49 USC 1603.

49 USC 1607c.

(b) Section 11(b)(5) of such Act is amended to read as follows:

“(5) As a condition to project approval, the amount of the Federal grant must be equally matched from other than Federal funds.”.

(c) The first sentence of section 11(b)(7) of such Act is amended by inserting “, which include bona fide research and training in urban transportation” before the period.

## AVAILABILITY OF FUNDS—URBAN MASS TRANSIT PROGRAM

SEC. 307. Section 5 of the Urban Mass Transportation Act of 1964 is amended—

49 USC 1604.

(1) by adding immediately after subsection (c)(4) the following:

“(5) Apportionments under this section for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments under this section for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978.”; and

(2) by adding at the end thereof the following new subsection:

“(o) Notwithstanding any other provision of this section, any sums apportioned under this section before October 1, 1982, and available for expenditure in any urbanized area or part thereof on such date shall remain available for expenditure in such area or part in accordance with the provisions of this section until September 30, 1985. Any sums so apportioned remaining unobligated on October 1, 1985, shall be added to amounts available for apportionment under section 9 of this Act for the fiscal year ending September 30, 1986.”.

*Ante*, p. 2141.

## COMPETITIVE PROCUREMENT

SEC. 308. Paragraph (2) of subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

49 USC 1608.

“(2) In lieu of requiring that contracts for the acquisition of rolling stock be awarded based on consideration of performance, standardization, life-cycle costs and other factors, or on the basis of lowest initial capital cost, such contracts may be awarded based on a competitive procurement process. The Secretary shall report to Congress within a year of enactment of the Federal Public Transportation Act of 1982 on any legislative or administrative revisions required to ensure that procurement procedures are fair and competitive.”.

Report to Congress.  
*Ante*, p. 2140.

## DEFINITIONS

SEC. 309. (a) Section 12(c)(1) of the Urban Mass Transportation Act of 1964 is amended by inserting before the semicolon at the end thereof the following: “, and such term also means any bus rehabilitation project which extends the economic life of a bus five years or more”.

49 USC 1608.

(b) Section 12(c)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting “or rails” immediately after “separate right-of-way” and by striking out the semicolon at the end of such section and inserting in lieu thereof a comma and the following: “and also means a public transportation facility which uses a fixed catenary system and utilizes a right-of-way usable by other forms of transportation;”.

## PERFORMANCE REPORTS

SEC. 310. (a) The Secretary of Transportation shall report to Congress in January of 1984 and in January of every second year thereafter his estimates of the current performance and condition of public mass transportation systems together with recommendations for any necessary administrative or legislative revisions.

Submittal to Congress.  
49 USC 1601c.

(b) In reporting to Congress pursuant to this section, the Secretary shall prepare a comprehensive assessment of public transportation facilities in the United States. The Secretary shall also assess future needs for such facilities and estimate future capital requirements

Public transportation facilities, assessment.

and operation and maintenance requirements for one-, five-, and ten-year periods at specified levels of service.

#### CONSTRUCTION CONDITION

Financial  
assistance.

SEC. 311. The Secretary of Transportation shall only make available Federal financial assistance to the Metropolitan Atlanta Rapid Transit Authority for the construction of the proposed fixed rail line from Doraville, Georgia, to the Atlanta Hartsfield International Airport on the condition that the portion of such line extending north from Lenox Station to Doraville and the portion of such line extending south from Lakewood Station to the Atlanta Hartsfield International Airport will be constructed simultaneously in usable segments so that revenue passenger service to Doraville and such airport shall commence at approximately the same time. This section shall apply until priorities different from those set forth in the preceding sentence are adopted after September 30, 1983, by a valid act of the Georgia General Assembly and by a valid resolution of the Board of the Metropolitan Atlanta Rapid Transit Authority.

#### LOAN REPAYMENT

49 USC 1601  
note.

SEC. 312. (a) The Massachusetts Bay Transportation Authority shall have no obligation to repay the United States 80 per centum of the principal and the interest owed on the following loans entered into with the Secretary of Transportation under the Urban Mass Transportation Act of 1964 for the acquisition of rights-of-way: the loan numbered MA03-9001 entered into on January 26, 1973, and the loan numbered MA23-9010 entered into on December 20, 1976.

(b)(1) The Secretary of Transportation may convert the remaining 20 per centum of the principal and interest owed on the loans described in subsection (a) to grants under the conditions set forth in paragraph (2).

(2) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary of Transportation, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven under subsection (a) been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

49 USC 1602.

#### ADVANCE ACQUISITION OF RIGHTS-OF-WAY

49 USC 1602.

SEC. 313. Section 3(a)(1)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" the second place it appears and by inserting immediately before the semicolon at the end thereof the following: "; and the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses or preliminary engineering".



## FEASIBILITY STUDY

SEC. 314. (a) The Secretary of Transportation shall make a grant to the Massachusetts Bay Transportation Authority to conduct a feasibility study to examine the possibility of replacing either any or all three of the existing electric trolley bus lines (and thereby eliminating the overhead power lines) in Cambridge, Massachusetts, with the more advanced and equally environmentally sound electric bus technology that is being developed in the State of California for the Santa Barbara transit system.

Grant.

(b) Notwithstanding section 21(a)(2) of the Urban Mass Transportation Act of 1964, of the amount made available by such section 21(a)(2) for the fiscal year ending September 30, 1983, \$500,000 shall be available only to carry out this section and such amount shall remain available until expended.

*Ante*, p. 2140.

## STUDY OF LONG-TERM LEVERAGE FINANCING

SEC. 315. The Secretary of Transportation shall conduct a study on the feasibility of providing an assured flow of Federal funds under long-term contracts with local or State transit authorities for use in leveraging further capital assistance from State or local government or private sector sources. Within six months of the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House a report of such study.

Report to congressional committees.

## FORMULA GRANTS FOR NONURBANIZED AREAS

SEC. 316. (a) Section 18(a) of the Urban Mass Transportation Act of 1964 is amended by striking out “appropriated pursuant to section 4(e) of this Act” and inserting in lieu thereof “made available under section 21(a) of this Act to carry out this section”.

49 USC 1614.

(b) Section 18(c) of the Urban Mass Transportation Act of 1964 is amended by striking out “three years” in the first sentence and inserting in lieu thereof “two years”.

*Ante*, p. 2140.

## ASSISTANCE TO MEET SPECIAL NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 317. (a) Section 16(b) of the Urban Mass Transportation Act of 1964 is amended by striking out “section 4(c)(3) of this Act, 2 per centum” and inserting in lieu thereof “section 21(a)(2) of this Act, 3.5 per centum”.

49 USC 1612.

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

(c) Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

“(c) In carrying out subsection (a) of this section, section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973 (consistent with any applicable Government-wide standards for the implementation of such section 504), the Secretary shall, not later than ninety days after the date of the enactment of this subsection, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after the date of such enactment, promulgate

Effective date.  
49 USC 1612  
note.  
Publication in  
Federal  
Register.  
23 USC 142 note.  
29 USC 794.

23 USC 142 note.

final regulations, establishing (1) minimum criteria for the provision of transportation services to handicapped and elderly individuals by recipients of Federal financial assistance under this Act or under any provision of law referred to in section 165(b) of the Federal-Aid Highway Act of 1973, and (2) procedures for the Secretary to monitor recipients' compliance with such criteria. Such regulations shall include provisions for ensuring that organizations and groups representing such individuals are given adequate notice of and opportunity to comment on the proposed activities of recipients for the purpose of achieving compliance with such regulations."

#### REPEAL OF SAFETY AUTHORITY

Repeal.  
49 USC 1604a.

SEC. 318. (a) Section 107 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is repealed.

(b) The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

#### "SAFETY AUTHORITY

49 USC 1618.

"SEC. 22. The Secretary may investigate conditions in any facility, equipment, or manner of operation financed under this Act which the Secretary believes creates a serious hazard of death or injury. The investigation should determine the nature and extent of such conditions and the means which might best be employed to correct or eliminate them. If the Secretary determines that such conditions do create such a hazard, he shall require the local public body which has received funds under this Act to submit a plan for correcting or eliminating such condition. The Secretary may withhold further financial assistance under this Act from the local public body until he approves such plan and the local public body implements such plan."

#### TITLE IV

#### PART A—COMMERCIAL MOTOR VEHICLE SAFETY

#### DEFINITIONS

49 USC 2301.

SEC. 401. For purposes of this part, unless the context otherwise requires, the term—

(1) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(B) if such vehicle is designed to transport more than ten passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(2) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment, nor does such term include an individual employed by a commercial motor carrier engaged in the transportation of passengers;

(3) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(4) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(5) "Secretary" means the Secretary of Transportation; and

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

#### GRANTS TO STATES

SEC. 402. (a) Under the terms and conditions of this section, subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

49 USC 2302.

(b)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety, or compatible State rules, regulations, standards, and orders. Such plan shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

Enforcement plan.

Plan objectives.

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce such rules, regulations, standards, and orders;

(E) provides that all reports required pursuant to this section be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for record-keeping, inspections, and investigations as may be established and required by the Secretary; and

(G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of the Secretary's action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

Continuing  
evaluation.

Disapproval  
notice.

Judicial review.

5 USC 701 *et seq.*

(c) The Secretary shall, on the basis of reports submitted by the State agency, and on the Secretary's own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards, or orders, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(d) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for its last two full fiscal years preceding the date of enactment of this section.

#### FEDERAL SHARE OF COSTS

49 USC 2303.

SEC. 403. By grants authorized under this part, the Secretary shall reimburse any State an amount not to exceed 80 per centum of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 402(d) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs, pursuant to such criteria as may be established.

#### AUTHORIZATIONS

49 USC 2304.

SEC. 404. To carry out the purposes of section 402 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed \$10,000,000 in the fiscal year ending September 30, 1984, not to exceed \$20,000,000 in the fiscal year ending September 30, 1985, not to exceed \$30,000,000 in the fiscal year ending September 30, 1986, not to exceed \$40,000,000 in the fiscal year ending September 30, 1987, and not to exceed \$50,000,000 in the

fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse States pro rata for the Federal share of costs incurred. Grants made pursuant to the authority of this part shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

Reimbursement  
to States.

#### PROTECTION OF EMPLOYEES

SEC. 405. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding relating to a violation of a commercial motor vehicle safety rule, regulation, standard, or order, or has testified or is about to testify in any such proceeding.

Discrimination.  
49 USC 2305.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

Unsafe  
conditions.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within one hundred and eighty days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

Filing of  
complaint.

(2)(A) Within sixty days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a preliminary order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within thirty days, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order

Investigation.

Hearing request.

Final order. shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within one hundred and twenty days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

Complainant, reinstatement to former position. (B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, and (iii) compensatory damages. If such an order is issued, the Secretary of Labor, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

Review. (d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within sixty days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

5 USC 701 *et seq.*

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

Civil action. (e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

#### MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

49 USC 10927  
note.

SEC. 406. (a) Section 30 of the Motor Carrier Act of 1980 is amended in subsections (a) and (b) by striking out "two-year period" each place it appears and inserting in lieu thereof "three and one-half year period".

(b) Section 30(c) of the Motor Carrier Act of 1980 is amended by striking out "(c) Financial" and inserting in lieu thereof "(c)(1) Subject to paragraph (2) of this subsection, financial" and by adding at the end thereof the following new paragraph:

"(2)(A) Any person domiciled in any contiguous foreign country who provides transportation by motor vehicle to which any of the

minimal levels of financial responsibility established under this section apply shall have evidence of such financial responsibility in such motor vehicle at any time such person is providing such transportation.

“(B) The Secretary of Transportation and the Secretary of the Treasury shall deny entry into the United States of any motor vehicle in which there is not evidence of financial responsibility required to be in such vehicle under subparagraph (A) of this paragraph.”

(c) Section 30(g) of the Motor Carrier Act of 1980 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

49 USC 10927  
note.

“(1) ‘Interstate commerce’ includes transportation between a place in a State and a place outside the United States, to the extent such transportation is in the United States;”

“Interstate  
commerce.”

(d) Section 30(f) of the Motor Carrier Act of 1980 is amended to read as follows:

“(f) This section shall not apply to any motor vehicle having a gross vehicle weight rating of less than ten thousand pounds, if such vehicle is not used to transport any quantity of class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce.”

## PART B—COMMERCIAL MOTOR VEHICLE LENGTH LIMITATION

### LENGTH LIMITATIONS ON FEDERALLY ASSISTED HIGHWAYS

SEC. 411. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle length limitation of less than forty-eight feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than twenty-eight feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section.

49 USC 2311.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer or trailers and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to twenty-eight and one-half feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1982, within a sixty-five-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment

Specialized  
equipment  
accommodations.

of the National System of Interstate and Defense Highways, and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary pursuant to subsection (e) of this section.

(d) The Secretary is authorized to establish rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e)(1) The Secretary shall designate as qualifying Federal-aid Primary System highways subject to the provisions of subsections (a) and (c) those Primary System highways that are capable of safely accommodating the vehicle lengths set forth therein.

Final rules.

(2) The Secretary shall make an initial determination of which classes of highways shall be designated pursuant to paragraph (1) within 90 days of the date of enactment of this section.

(3) The Secretary shall enact final rules pursuant to paragraph (1) no later than two hundred and seventy days from the date of enactment of this section and may revise such rules from time to time thereafter.

"Truck tractor."

(f) For the purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

Effective date.

(g) The provisions of this section shall take effect ninety days after the date of enactment of this title.

Exclusions

(h) The length limitations described in this section shall be exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices, which the Secretary may interpret as necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded under this subsection from the limitations of this section shall have by its design or use the capability to carry cargo.

#### ACCESS TO THE INTERSTATE SYSTEM

Commercial  
motor vehicles.  
49 USC 2312.

SEC. 412. No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this title between (1) the Interstate and Defense Highway System and any other qualifying Federal-aid Primary System highways, as designated by the Secretary, and (2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers.

#### ENFORCEMENT

Civil action.  
49 USC 2313.

SEC. 413. The Secretary, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or



preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this title, or any rule issued under authority of this title.

#### SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 414. (a) The Congress declares that visibility on wet roadways on the Interstate System should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

49 USC 2314.

(b) The Secretary shall by regulation—

(1) within one year after the date of the enactment of this title, establish minimum standards with respect to the performance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, or trailers;

Minimum standards, establishment.

(2) within two years after the date of the enactment of this title, require that all new truck tractors, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) within five years after the date of the enactment of this title, require that all truck trailers, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

(c) For the purposes of this section, the term—

Definitions.

(1) “truck tractor” means the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s);

(2) “semitrailer” and “trailer” mean any semitrailer or trailer, respectively, with respect to which section 422 of this title applies; and

(3) “Interstate System” has the same meaning provided in section 101 of title 23, United States Code.

#### REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 415. (a) Within 18 months after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

Submittal to Congress.  
49 USC 2315.

(b) For the purposes of this section, the term—

Definitions.

(1) “longer combination commercial motor vehicles” means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) “national intercity truck route network” means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense

Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service, except that the Secretary shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

Weight limits.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

## PART C—OTHER PROVISIONS

### STATE RECREATIONAL BOATING

SEC. 421. (a) The Federal Boat Safety Act of 1971 (Public Law 92-75; 85 Stat. 213) is amended as follows:

(1) By inserting "contract with, and" immediately after "The Secretary may" in the second sentence of section 25(a) (46 U.S.C.

1474(a)) and in section 26(a) (46 U.S.C. 1475(a)) immediately after “promulgate, may”.

(2) In section 26 (b) and (c) (46 U.S.C. 1475 (b) and (c))—

(A) by striking “appropriated” and inserting “authorized to be expended”; and

(B) by adding at the end thereof the following: “His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing the program.”.

(3) In section 26(d) (46 U.S.C. 1475(d))—

(A) by striking “appropriated” in the third and fourth sentences and inserting in lieu thereof “authorized to be expended”; and

(B) by inserting immediately after the third sentence the following: “Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act.”; and

(C) by adding at the end thereof the following: “Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities programs pursuant to this Act.”.

(4) In section 30 (46 U.S.C. 1479) by striking the section heading and all that follows thereafter and inserting in lieu thereof the following:

“AUTHORIZATION OF CONTRACT SPENDING AUTHORITY FOR STATE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAMS

“SEC. 30. For the purposes of providing financial assistance for State recreational boating safety and facilities improvement programs, the Secretary is authorized to expend, subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, an amount equal to the revenues accruing each fiscal year from the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motor boats and under section 4081 of such Code with respect to gasoline used as fuel in motor boats. Of the funds available for allocations and distribution for recreational boating safety and facilities improvement programs, one-third shall be allocated for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs beginning with fiscal year 1983. Any funds authorized to be expended for State recreational and boating safety improvement programs shall remain available until expended and shall be deemed to have been expended only if a sum equal to the total amounts authorized to be expended under this section for the fiscal year in question and all previous fiscal years have been obligated. Any funds that were previously obligated but are released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated funds and shall be immediately available for expenditure.”.

26 USC 4041.

26 USC 4081.

## REFORESTATION

16 USC 1606a.

SEC. 422. (a) Section 303 (d) and (e) of the Act of October 14, 1980 (P.L. 96-451, 16 U.S.C. 160a (d) and (e)), are amended to read as follows:

"(d) During each of the fiscal years 1983, 1984, and 1985, the Secretary of Agriculture shall expend all amounts available in the Trust Fund (including any amounts not expended in previous fiscal years) for—

"(1) reforestation and timber stand improvement as set forth in the Congressional policy in section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)); and

"(2) administrative costs of the Federal Government properly allocatable to the activities described in paragraph (1).

In no event may the Secretary expend less than \$104,000,000 out of the Trust Fund in fiscal year 1983 for the purposes of this subsection.

"(e) It is the intent of Congress that the Secretary shall expend all of the funds available in the Trust Fund in each fiscal year. Any such funds which are not expended in a given fiscal year shall remain available for expenditure without fiscal year limitation; except that any funds not expended prior to October 1, 1985, shall, no later than April 30, 1986, be distributed to the States for use in State forestry programs pursuant to the formula set forth in the Act of May 23, 1908 (16 U.S.C. 500, Public Law 136, Sixtieth Congress)."

(b) In section 303(b)(1) of such Act, strike out "and before October 1, 1985,".

## SALTONSTALL-KENNEDY ACT AMENDMENT

SEC. 423. (a) Section 2(e) of the Act of August 11, 1939, commonly referred to as the Saltonstall-Kennedy Act (15 U.S.C. 713c-3 (e)), is amended to read as follows:

"(e) ALLOCATION OF FUND MONEYS.—(1) Notwithstanding any other provision of law, all moneys in the fund shall be used exclusively for the purpose of promoting United States fisheries in accordance with the provisions of this section, and no such moneys shall be transferred from the fund for any other purpose. With respect to any fiscal year, all moneys in the fund, including the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year, shall be allocated as follows:

"(A) the Secretary shall use no less than 60 per centum of such moneys to make direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of this section; and

"(B) the Secretary shall use the balance of the moneys in the fund to finance those activities of the National Marine Fisheries Service which are directly related to development of the United States fisheries pursuant to subsection (d) of this section.

"(2) The Secretary shall, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the moneys in the fund described in paragraph (1). Any such moneys which are not expended in a given fiscal year shall remain available for expenditure in accordance with this section

without fiscal year limitation, except that the Secretary shall not obligate such moneys at a rate less than that necessary to prevent the balance of moneys in the fund from exceeding \$3,000,000 at the end of any fiscal year.”.

(b) The amendment made by subsection (a) of this section shall take effect on October 1, 1983.

Effective date.  
15 USC 713c-3  
note.

#### OCEAN DUMPING

SEC. 424. (a) Section 104 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1431(b)) is amended by adding the following new subsections at the end thereof:

33 USC 1414.

“(h) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of enactment of this subsection, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

Permit issuance.  
33 USC 1411

“(1) that the proposed dumping is necessary to conduct research—

“(A) on new technology related to ocean dumping, or

“(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

“(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

“(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

“(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

“(i)(1) Two years after the date of enactment of this subsection, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

Radioactive  
Material  
Disposal Impact  
Assessment.

“(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

“(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

“(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

"(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

"(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

"(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

"(G) an analysis of the economic impact upon other users of marine resources;

"(H) alternatives to the proposed action;

Consultation  
and public  
hearing results.

"(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

Comprehensive  
monitoring plan.

"(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

"(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

"(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

Assessment,  
copy to  
congressional  
committees.

"(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Recommendation  
to  
Congress.

"(4) (A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

Ocean dumping  
permit,  
restricted  
issuance.

"(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

"(C) For purposes of this subsection—

"(1) continuity of session of the Congress is broken only by an adjournment sine die;

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

"Resolution."

"(D) For the purposes of this subsection, the term 'resolution' means a joint resolution, the resolving clause of which is as follows: 'That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit under the Marine Protection, Research,

and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on \_\_\_\_\_, 19\_\_\_\_; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate.”.

33 USC 1401  
note.

#### THE MERCHANT MARINE ACT, 1936

SEC. 425. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: “No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts. No vessel eligible for guarantees under this title shall be denied eligibility because of its type.”.

#### AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 426. (a) Section 507(a) of the Airport and Airway Improvement Act of 1982 (title V, Public Law 97-248, 96 Stat. 679) is amended by redesignating paragraph (3) as paragraph (3)(A) and adding immediately thereafter a new subparagraph (B) as follows:

49 USC 2206.

“(B) There is hereby established a supplementary discretionary fund consisting of those amounts to be credited to such fund pursuant to section 505(a) of this title. Amounts in the supplementary discretionary fund shall be distributed by the Secretary in the same manner and for the same purposes as funds distributed pursuant to subparagraph (A) except that (i) such amounts may only be distributed for projects involving construction, reconstruction, or repair begun after the date of enactment of this subparagraph and not to pay for any such work begun before such date, and (ii) the Secretary shall give preference to those projects that increase the safety or capacity of the airport receiving such funds. If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505, the Secretary shall implement such limitation or reduction by deferring the distribution of a corresponding amount of supplementary discretionary funds until a subsequent fiscal year. In no event may the Secretary reduce any other apportionment or distribution under this section in order to comply with any such Congressional limitation or reduction unless all of the supplementary discretionary funds available for distribution in such year have been deferred until a subsequent fiscal year.”.

Supplementary  
discretionary  
fund.  
Distribution.

Limitation or  
reduction.

(b) Section 505(a) of such Act is amended by—

*Ante*, p. 676.

(1) striking out “\$1,050,000,000” and inserting in lieu thereof \$1,250,000,000, of which \$200,000,000 shall be credited to the supplementary discretionary fund established by paragraph (3)(B) of section 507(a) of this title”;

(2) striking out “\$1,843,500,000” and inserting in lieu thereof “\$2,243,500,000, of which \$400,000,000 shall be credited to such fund”;

(3) striking out “\$2,755,500,000” and inserting in lieu thereof “\$3,230,500,000, of which \$475,000,000 shall be credited to such fund”;

(4) striking out “\$3,772,500,000” and inserting in lieu thereof “\$4,247,500,000, of which \$475,000,000 shall be credited to such fund”;

(5) striking out “\$4,789,700,000” and inserting in lieu thereof “\$5,264,700,000 of which \$475,000,000 shall be credited to such fund”; and

(6) adding at the end thereof the following new sentence: “Those amounts credited to the supplementary discretionary fund pursuant to this subsection shall not be subject to any of the apportionments or distributions set forth in sections 507(a)(1), (2), (3)(A), or 508(d) of this title.”.

*Ante*, p. 677.

(c) The first sentence of section 506(c)(2) of such Act is amended by striking out everything after “section 505” and inserting in lieu thereof “for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987.”.

*Ante*, p. 679.

(d) The second sentence of section 507(a)(1)(E) of such Act is amended by inserting “, after complying with the provisions of paragraph (3)(B) of this subsection,” immediately after “the Secretary”.

26 USC 9502.

(e) Section 9502(d)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out “the Airport and Airway Improvement Act of 1982”, the second time it appears therein, and inserting in lieu thereof “the Surface Transportation Assistance Act of 1982”.

#### CODIFICATION CORRECTIONS

SEC. 427. Section 11909(b) of title 49, United States Code, is amended by inserting after “chapter 105 of this title” the following: “, or subject to the jurisdiction of the Commission prior to enactment of the Department of Transportation Act,”.

(b) Section 11914(b) of title 49, United States Code, is amended by inserting after “chapter 105 of this title,” the following: “or subject to the jurisdiction of the Commission prior to enactment of the Department of Transportation Act,”.

Highway  
Revenue Act of  
1982.

## TITLE V—HIGHWAY REVENUE ACT OF 1982

### Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

#### SEC. 501. SHORT TITLE; TABLE OF CONTENTS.

26 USC 1 note.

(a) **SHORT TITLE.**—This title may be cited as the “Highway Revenue Act of 1982”.

(b) **TABLE OF CONTENTS.**—

#### TITLE V—HIGHWAY REVENUE ACT OF 1982

#### Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

Sec. 501. Short title; table of contents.



## Sec. 502. Amendment of 1954 Code.

## Subtitle B—Tax Changes

Sec. 511. Motor fuel taxes.

Sec. 512. Excise tax on heavy trucks.

Sec. 513. Heavy truck use tax.

Sec. 514. Taxes on heavy truck tires.

Sec. 515. Repeal of tax on lubricating oil.

Sec. 516. Period taxes and exemptions in effect.

Sec. 517. Treatment of certain motor carrier operating authorities acquired by taxpayers other than corporations.

Sec. 518. Extension of payment due date for certain fuel taxes.

## Subtitle C—Floor Stocks Provisions

Sec. 521. Floor stocks taxes.

Sec. 522. Floor stocks refunds.

Sec. 523. Definitions and special rules.

## Subtitle D—Highway Trust Fund; Mass Transit Account

Sec. 531. 4-year extension of Highway Trust Fund; codification of Trust Fund in Internal Revenue Code of 1954; establishment of Mass Transit Account.

## Subtitle E—Miscellaneous Provisions

Sec. 541. Tax treatment of public utility property.

Sec. 542. No return required of individual whose only gross income is grant of \$1,000 from State.

Sec. 543. Deduction for conventions on cruise ships.

Sec. 544. Additional weeks of Federal supplemental compensation.

Sec. 545. Exclusion of certain home energy assistance from income under SSI and AFDC.

Sec. 546. Modifications to chlor-alkali electrolytic cells.

Sec. 547. Interest exempt other than under the Internal Revenue Code of 1954.

## SEC. 502. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

## Subtitle B—Tax Changes

## SEC. 511. MOTOR FUEL TAXES.

(a) TAXES ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS INCREASED FROM 4 CENTS A GALLON TO 9 CENTS A GALLON.—

(1) GASOLINE TAX.—Subsection (a) of section 4081 (relating to tax on gasoline) is amended by striking out “4 cents a gallon” and inserting in lieu thereof “9 cents a gallon”. 26 USC 4081.

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 (relating to tax on diesel fuel and special motor fuels) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following: 26 USC 4041.

“(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

“(1) DIESEL FUEL.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

“(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

“(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).”

“(2) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

“(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

“(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).”

(b) EXEMPTION FOR METHANOL AND ETHANOL FUELS.—

26 USC 4041.

(1) IN GENERAL.—Section 4041 is amended by adding at the end of the subsection (b) inserted by subsection (c) of this section the following new paragraph:

“(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

“(A) IN GENERAL.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

“(B) QUALIFIED METHANOL OR ETHANOL FUEL.—The term ‘qualified methanol or ethanol fuel’ means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

“(C) TERMINATION.—On and after October 1, 1988, subparagraph (A) shall not apply.”

26 USC 44E.

(2) COORDINATION WITH CREDIT.—Subsection (c) of section 44E (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) is amended by striking out “section 4041(k) or 4081(c)” and inserting in lieu thereof “subsection (b)(2) or (k) of section 4041 or section 4081(c)”.

(c) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

26 USC 6421.

(1) GASOLINE.—Subsection (a) of section 6421 (relating to non-highway use of gasoline) is amended by striking out the first sentence and inserting in lieu thereof the following: “Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081.”

26 USC 4041.

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 is amended by inserting after subsection (a) the following new subsection:

“(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE; EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

“(1) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

“(A) IN GENERAL.—No tax shall be imposed by subsection (a) on liquids sold for use or used in an off-highway business use.

“(B) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

“(C) **OFF-HIGHWAY BUSINESS USE DEFINED.**—For purposes of this subsection, the term ‘off-highway business use’ has the meaning given to such term by section 6421(d)(2).”

(3) **CLERICAL AMENDMENTS.**—

(A) Subparagraphs (A) and (B) of section 6421(d)(2) are each amended by striking out “qualified business use” and inserting in lieu thereof “off-highway business use”. 26 USC 6421.

(B) The heading for paragraph (2) of section 6421(d) is amended by striking out “QUALIFIED” and inserting in lieu thereof “OFF-HIGHWAY”.

(d) **RATES OF TAX FOR GASOLINE.**—

(1) **AMENDMENTS OF SECTION 4081.**—

26 USC 4081.

(A) **IN GENERAL.**—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended by striking out “no tax shall be imposed by this section on the sale of any gasoline” and inserting in lieu thereof “subsection (a) shall be applied by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasoline”.

(B) **TREATMENT OF LATER SEPARATION.**—

(i) Paragraph (2) of section 4081(c) is amended by striking out “tax was not imposed by reason of this subsection” and inserting in lieu thereof “tax was imposed under subsection (a) at the rate of 4 cents a gallon by reason of this subsection”.

(ii) Paragraph (2) of section 4081(c) is amended by adding at the end thereof the following new sentence: “The amount of tax imposed on any sale of such gasoline by such person shall be 5 cents a gallon.”

(2) **AMENDMENT OF SECTION 4041.**—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended to read as follows: 26 USC 4041.

“(k) **FUELS CONTAINING ALCOHOL.**—

“(1) **IN GENERAL.**—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

“(A) subsection (a) shall be applied by substituting ‘4 cents’ for ‘9 cents’ each place it appears, and

“(B) no tax shall be imposed by subsection (c).

“(2) **LATER SEPARATION.**—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1) applied, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

“(3) **TERMINATION.**—Paragraph (1) shall not apply to any sale or use after December 31, 1992.”

(3) **CREDIT FOR ALCOHOL USED AS A FUEL.**—Section 44E (relating to alcohol used as a fuel) is amended— 26 USC 44E.

(A) by striking out “40 cents” each place it appears and inserting in lieu thereof “50 cents”, and

(B) by striking out “30 cents” each place it appears and inserting in lieu thereof “37.5 cents”.

(4) **AMENDMENTS OF SECTION 6427.**—Subsection (f) of section 6427 is amended to read as follows: 26 USC 6427.

“(f) **GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.**—

“(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which a tax is imposed by section 4081 at the rate of 9 cents a gallon is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the amount determined at the rate of 5 cents a gallon. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

“(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421.”

(5) TARIFF ON ALCOHOL IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out “40 cents per gal.” each place it appears and inserting in lieu thereof “50 cents per gal.”

(e) USE IN CERTAIN TAXICABS.—

26 USC 6427.

(1) IN GENERAL.—Paragraph (1) of section 6427(e) (relating to use in certain taxicabs) is amended by striking out “an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel” and inserting in lieu thereof “an amount determined at the rate of 4 cents a gallon”.

(2) EXTENSION OF REPAYMENT.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out “December 31, 1982” and inserting in lieu thereof “September 30, 1984”.

(3) SUSPENSION OF SHARED TRANSPORTATION REQUIREMENT.—Clause (ii) of section 6427(e)(2)(A) (relating to qualified taxicab services) is amended to read as follows:

“(ii) is not prohibited by company policy from furnishing (with the consent of the passengers) shared transportation.”

Report and recommendations to Congress.  
26 USC 6427 note.

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1984, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as he may deem advisable.

(f) REFUND OF MOTOR FUEL TAXES TO AERIAL AND OTHER APPLICATORS OF AGRICULTURAL SUBSTANCES.—Paragraph (4) of section 6420(c) (defining use on a farm for farming purposes) is amended to read as follows:

26 USC 6420.

“(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

“(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

“(B) if—

“(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

“(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) (relating to noncommercial aviation) is amended to read as follows: 26 USC 4041.

“(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 12 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081.”

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 6416(b) is amended by striking out “section 4041 (a)(1) or (b)(1)” and inserting in lieu thereof “paragraph (1)(A) or (2)(A) of section 4041(a)”. 26 USC 6416.

(B) Subsection (a) of section 6427 is amended by striking out “section 4041 (a), (b), or (c)” and inserting in lieu thereof “section 4041 (a) or (c)”. 26 USC 6427.

(C) Paragraph (1) of section 6427(b) is amended by striking out “subsection (a) or (b) of section 4041” each place it appears and inserting in lieu thereof “subsection (a) of section 4041”.

(D) Subsection (c) of section 6427 is amended by striking out “section 4041 (a), (b) or (c)” and inserting in lieu thereof “section 4041 (a) or (c)”.

(h) EFFECTIVE DATE.—

26 USC 4041  
note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on April 1, 1983.

(2) TARIFF ON IMPORTED ALCOHOL.—The amendment made by subsection (d)(5) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after March 31, 1983.

(3) FOR SUBSECTION (e)(2).—The amendment made by subsection (e)(2) shall take effect on January 1, 1983.

(4) SHARED TRANSPORTATION REQUIREMENT.—The amendment made by subsection (e)(3) shall apply with respect to fuel purchased after December 31, 1982, and before January 1, 1984.

SEC. 512. EXCISE TAX ON HEAVY TRUCKS.

(a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX.—

(1) INCREASE IN THRESHOLD WEIGHTS.—Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) is amended to read as follows: 26 USC 4061.

“(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

“(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

“(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle

weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."

26 USC 4061.

(2) **REPEAL OF TAX ON PARTS AND ACCESSORIES, TERMINATION OF TAX IMPOSED AT MANUFACTURES LEVEL.**—Section 4061 is amended by adding at the end thereof the following new subsection:

"(c) **TERMINATION.**—

"(1) **TAX ON PARTS AND ACCESSORIES.**—On and after the day after the date of the enactment of this subsection, the tax imposed by subsection (b) shall not apply.

"(2) **TAX ON TRUCKS.**—On and after April 1, 1983, the tax imposed by subsection (a) shall not apply."

26 USC 4063.

(3) **EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.**—Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) **RAIL TRAILERS AND RAIL VANS.**—The tax imposed under section 4061 shall not apply in the case of—

"(A) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car, and

"(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car."

26 USC 4061  
note.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) **IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.**—

(1) **IN GENERAL.**—Chapter 31 is amended by adding at the end thereof the following new subchapter:

### "Subchapter B—Heavy Trucks and Trailers

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

26 USC 4051.

"**SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.**

"(a) **IMPOSITION OF TAX.**—

"(1) **IN GENERAL.**—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis.

"(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis.

"(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

"(2) **EXCLUSION FOR TRUCKS WEIGHING 33,000 POUNDS OR LESS.**—The tax imposed by paragraph (1) shall not apply to

automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

“(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

“(4) SALE OF TRUCKS, ETC., TREATED AS SALE OF CHASSIS AND BODY.—For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

“(b) SEPARATE PURCHASE OF TRUCK OR TRAILER AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

“(1) IN GENERAL.—If—

“(A) the owner, lessee, or operator of any vehicle which contains an article taxable under subsection (a) installs (or causes to be installed) any part or accessory on such vehicle, and

“(B) such installation is not later than the date 6 months after the date such vehicle (as it contains such article) was first placed in service,

then there is hereby imposed on such installation a tax equal to 12 percent of the price of such part or accessory and its installation.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

“(A) the part or accessory installed is a replacement part or accessory, or

“(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to any vehicle does not exceed \$200 (or such other amount or amounts as the Secretary may by regulations prescribe).

“(3) INSTALLERS SECONDARILY LIABLE FOR TAX.—In addition to the owner, lessee, or operator of the vehicle, the owner of the trade or business installing the part or accessory shall be liable for the tax imposed by paragraph (1).

“(c) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

“(d) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was imposed under section 4061(a), subsection (a) shall be applied by substituting ‘2 percent’ for ‘12 percent’.

#### “SEC. 4052. DEFINITIONS AND SPECIAL RULES.

26 USC 4052.

“(a) FIRST RETAIL SALE.—For purposes of this subchapter—

“(1) IN GENERAL.—The term ‘first retail sale’ means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

“(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

“(3) USE TREATED AS SALE.—

“(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051

in the same manner as if such article were sold at retail by him.

“(B) **EXEMPTION FOR USE IN FURTHER MANUFACTURE.**—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by him.

“(C) **COMPUTATION OF TAX.**—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

“(b) **DETERMINATION OF PRICE.**—

“(1) **IN GENERAL.**—In determining price for purposes of this subchapter—

“(A) there shall be included any charge incident to placing the article in condition ready for use,

“(B) there shall be excluded—

“(i) the amount of the tax imposed by this subchapter,

“(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

“(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

“(C) the price shall be determined without regard to any trade-in.

“(2) **SALES NOT AT ARM'S LENGTH.**—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

“(c) **CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.**—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article by reason of merely combining such article with any equipment or other item listed in section 4063(d).

“(d) **CERTAIN OTHER RULES MADE APPLICABLE.**—Under regulations prescribed by the Secretary, rules similar to the rules of—

“(1) subsections (c) and (d) of section 4216 (relating to partial payments), and

“(2) section 4222 (relating to registration), shall apply for purposes of this subchapter.

26 USC 4053.

“**SEC. 4053. EXEMPTIONS.**

“(a) **EXEMPTION OF SPECIFIED ARTICLES.**—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

“(b) **CERTAIN EXEMPTIONS MADE APPLICABLE.**—The exemptions provided by section 4221(a) are hereby extended to the tax imposed by section 4051.”

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—



(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

### **“CHAPTER 31—RETAIL EXCISE TAXES**

“SUBCHAPTER A. Special fuels.

“SUBCHAPTER B. Heavy trucks and trailers.

#### **“Subchapter A—Special Fuels”.**

(B) The table of chapters for subtitle D is amended by striking out the item relating to chapter 31 and inserting in lieu thereof the following new item:

“Chapter 31. Retail excise taxes.”

(C) Paragraph (2) of section 6416(b), as amended by this Act, is amended by inserting “or under section 4051” after “section 4041(a)”. 26 USC 6416.

(D) Paragraph (1) of section 6416(a) is amended by striking out “chapter 31 (special fuels)” and inserting in lieu thereof “chapter 31 (relating to retail excise taxes)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983. 26 USC 4051 note.

#### **SEC. 513. HEAVY TRUCK USE TAX.**

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows: 26 USC 4481.

“(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

“(1) IN GENERAL.—

“Taxable gross weight		Rate of tax
At least	But less than	
33,000 pounds	55,000 pounds.....	\$50 a year, plus \$25 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds.....	\$600 a year, plus the applicable rate for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more	.....	The maximum tax a year.”

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“In the case of the taxable period beginning on July 1 of:	The applicable rate is	The maximum tax is.
1984. ....	\$40	\$1,600
1985.....	40	1,600
1986.....	44	1,700
1987.....	48	1,800
1988 or thereafter.....	52	1,900”

(b) EXEMPTION WHERE TRUCK USED FOR LESS THAN 5,000 MILES ON PUBLIC HIGHWAYS.—Section 4483 (relating to exemptions from high- 26 USC 4483.

way use tax) is amended by adding after subsection (c) thereof the following new subsection:

**“(d) EXEMPTION FOR TRUCKS USED FOR LESS THAN 5,000 MILES ON PUBLIC HIGHWAYS.—**

**“(1) SUSPENSION OF TAX.—**

**“(A) IN GENERAL.—If—**

“(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be less than 5,000 miles, and

“(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

**“(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—**Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

**“(2) EXEMPTION.—If—**

**“(A)** the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

**“(B)** such vehicle is not used during the taxable period on public highways for more than 5,000 miles, and

**“(C)** except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period,

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

**“(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.—If—**

**“(A)** the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

**“(B)** the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period, the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

**“(4) RELIEF FROM LIABILITY FOR TAX UNDER CERTAIN CIRCUMSTANCES WHERE TRUCK IS TRANSFERRED.—**Under regulations prescribed by the Secretary, the owner of a highway motor vehicle with respect to which the collection of the tax imposed by section 4481 is suspended under paragraph (1) shall not be liable for the tax imposed by section 4481 (and the new owner shall be liable for such tax) with respect to such vehicle if—

**“(A)** such vehicle is transferred to a new owner,

**“(B)** such suspension is in effect at the time of such transfer, and

**“(C)** the old owner furnishes such information as the Secretary by forms and regulations requires with respect to the transfer of such vehicle.

**“(5) OWNER DEFINED.—**For purposes of this subsection, the term ‘owner’ means, with respect to any highway motor vehicle, the person described in section 4481(b).”

26 USC 4481.

(c) CLARIFICATION OF TRAILERS CUSTOMARILY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES.—

(1) Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph: 26 USC 4482.

“(5) CUSTOMARY USE.—A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer.”

(2) The heading for subsection (c) of section 4482 is amended by inserting “AND SPECIAL RULE” after “DEFINITIONS”.

(d) PRORATION OF TAX WHERE VEHICLE DESTROYED.—Subsection (c) of section 4481 (relating to proration of tax) is amended to read as follows: 26 USC 4481.

“(c) PRORATION OF TAX.—

“(1) WHERE FIRST USE OCCURS AFTER FIRST MONTH.—If in any taxable period the first use of the highway motor vehicle is after the first month in such period, the tax shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such taxable period.

“(2) WHERE VEHICLE DESTROYED OR STOLEN.—

“(A) IN GENERAL.—If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

“(B) DESTROYED.—For purposes of subparagraph (A), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.”

(e) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection: 26 USC 4482.

“(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1988, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent.”

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on July 1, 1984.

(2) SPECIAL RULE IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(A) IN GENERAL.—In the case of a small owner-operator, paragraph (1) of this subsection and paragraph (2) of section 4481(a) of the Internal Revenue Code of 1954 (as added by this section) shall be applied by substituting for each date contained in such paragraphs a date which is 1 year after the date so contained.

(B) SMALL OWNER-OPERATOR.—For purposes of this paragraph, the term “small owner-operator” means any person who owns and operates at any time during the taxable period no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code for such taxable period.

*Ante*, p. 2177.  
26 USC 4481  
note.

**(D) AGGREGATION OF VEHICLE OWNERSHIPS.**—For purposes of subparagraph (B), all highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code which are owned by—

(i) any trade or business (whether or not incorporated) which is under common control with the taxpayer (within the meaning of section 52 (b)), or

(ii) any member of any controlled groups of corporations of which the taxpayer is a member, for any taxable period shall be treated as being owned by the taxpayer during such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who own highway motor vehicles through partnerships, joint ventures, and corporations.

**(E) CONTROLLED GROUPS OF CORPORATIONS.**—For purposes of this paragraph, the term “controlled group of corporations” has the meaning given to such term by section 1563(a), except that—

26 USC 1563.

(i) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

**(F) HIGHWAY MOTOR VEHICLES.**—For purposes of this paragraph, the term “highway motor vehicle” has the meaning given to such term by section 4482(a) of such Code.

26 USC 4481  
note.

**(g) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS.**—  
**(1) IN GENERAL.**—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of—

*Ante*, p. 2177.

(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954, and  
(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

**(2) ALTERNATIVES INCLUDED.**—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State co-operation in such activities.

**(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.**—The study required under subsection (a) shall be conducted in consultation with State officials, motor carriers, and other affected parties.

**(4) REPORT.**—Not later than January 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

**SEC. 514. TAXES ON HEAVY TRUCK TIRES.**

(a) **GENERAL RULE.**—Subsection (a) of section 4071 (relating to imposition and rate of tax on tires and tubes) is amended to read as follows: 26 USC 4071.

“(a) **IMPOSITION AND RATE OF TAX.**—There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

<b>“If the tire weighs:</b>	<b>The rate of tax is:</b>
Not more than 40 lbs. ....	No tax.
More than 40 lbs. but not more than 70 lbs. ....	15 cents per lb. in excess of 40 lbs.
More than 70 lbs. but not more than 90 lbs. ....	\$4.50 plus 30 cents per lb. in excess of 70 lbs.
More than 90 lbs. ....	\$10.50 plus 50 cents per lb. in excess of 90 lbs.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to articles sold on or after January 1, 1984. 26 USC 4071 note.

**SEC. 515. REPEAL OF TAX ON LUBRICATING OIL.**

(a) **GENERAL RULE.**—Subpart B of part III of subchapter A of chapter 32 (relating to tax on lubricating oil) is hereby repealed. 26 USC 4091-4094.

**(b) TECHNICAL AMENDMENTS.**—

(1) Subsection (c) of section 4221 is amended by striking out “4083, or 4093” and inserting in lieu thereof “or 4083”. 26 USC 4221.

(2) Subsection (d) of section 4222 is amended by striking out “4093,”. 26 USC 4222.

(3)(A) Section 6206 is amended by striking out “4091 (with respect to payments under section 6424),” and by striking out “6424,” each place it appears in the heading and the text. 26 USC 6206.

(B) The table of sections for subchapter A of chapter 63 is amended by striking out “6424,” in the item relating to section 6206.

(4) Paragraph (2) of section 6416(b) is amended— 26 USC 6416.

(A) by striking out subparagraph (N),

(B) by striking out the next to the last sentence,

(C) by inserting “or” at the end of subparagraph (L), and

(D) by striking out “; or” at the end of subparagraph (M) and inserting in lieu thereof a period.

(5) Section 6424 (relating to lubricating oil used for certain nontaxable purposes) is hereby repealed. 26 USC 6424.

(6)(A) Subsection (a) of section 39 is amended by striking out paragraph (3), by redesignating paragraph (4) as paragraph (3), and by inserting “and” at the end of paragraph (2). 26 USC 39.

(B) Subsection (b) of section 39 is amended—

(i) by striking out “section 6421, 6424, or 6427” and inserting in lieu thereof “section 6421 or 6427”, and

(ii) by striking out “section 6421(i), 6424(f), or 6427(i)” and inserting in lieu thereof “section 6421(i) or 6427(i)”.

(C) The heading for section 39 is amended by striking out “, SPECIAL FUELS, AND LUBRICATING OIL” and inserting in lieu thereof “AND SPECIAL FUELS”.

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out “, special fuels, and lubricating oil” in the item relating to section 39 and inserting in lieu thereof “and special fuels”.

26 USC 874,  
6201.

(E) Sections 874(a) and 6201(a)(4) are each amended by striking out “, special fuels, and lubricating oil” and inserting in lieu thereof “and special fuels”.

26 USC 882.

(F) Paragraph (2) of section 882(c) is amended by striking out “and lubricating oil”.

26 USC 6421.

(7) Subparagraph (C) of section 6421(d)(2) is amended by striking out “, special motor fuels, and lubricating oil” and inserting in lieu thereof “and special motor fuels”.

26 USC 4101.

(8) Section 4101 is amended by striking out “or section 4091”.

26 USC 4102.

(9) Section 4102 is amended by striking out “or lubricating oils”.

26 USC 6504.

(10) Paragraph (9) of section 6504 is amended by striking out “6424 (relating to lubricating oil used for certain nontaxable purposes),” and by striking out “6424,”.

26 USC 6675.

(11)(A) Subsection (a) of section 6675 is amended by striking out “6424 (relating to lubricating oil used for certain nontaxable purposes),”.

(B) Paragraph (1) of section 6675(b) is amended by striking out “6424,”.

(C) The heading for section 6675 is amended by striking out “OR LUBRICATING OIL.”.

(D) The table of sections for subchapter B of chapter 68 is amended by striking out “or lubricating oil” in the item relating to section 6675.

26 USC 7210,  
7603-7605,  
7609, 7610.

(12) Sections 7210, 7603, 7604, 7605, 7609(c)(1), and 7610(c) are each amended by striking out “6424(d)(2),” each place it appears.

(13) The table of subparts for part III of subchapter A of chapter 32 is amended by striking out the item relating to subpart B.

(14) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6424.

26 USC 39  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to articles sold after the date of the enactment of this Act.

#### SEC. 516. PERIOD TAXES AND EXEMPTIONS IN EFFECT.

##### (a) **PERIOD TAXES IN EFFECT.**—

##### (1) **SPECIAL FUELS TAX.**—

*Ante*, p. 2169.

(A) Subsection (a) of section 4041 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

“(3) **TERMINATION.**—On and after October 1, 1988, the taxes imposed by this subsection shall not apply.”

26 USC 4071.

(B) Subsection (e) of section 4041 is hereby repealed.

(2) **TIRES AND TREAD RUBBER.**—Subsection (d) of section 4071 is amended to read as follows:

“(d) **TERMINATION.**—On and after October 1, 1988, the taxes imposed by subsection (a) shall not apply.”

26 USC 4081.

(3) **GASOLINE.**—Subsection (b) of section 4081 is amended to read as follows:

“(b) **TERMINATION.**—On and after October 1, 1988, the taxes imposed by this section shall not apply.”

26 USC 4481,  
4482.

(4) **HIGHWAY USE TAX.**—Sections 4481(e) and 4482(c)(4) are each amended by striking out “1984” each place it appears and inserting in lieu thereof “1988”.

(5) **FLOOR STOCKS TAXES.**—Paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended—

(A) by striking out “1985” each place it appears and inserting in lieu thereof “1989”, and

(B) by striking out “1984” each place it appears and inserting in lieu thereof “1988”.

(6) **OTHER PROVISIONS.**—Paragraph (2) of section 6156(e) (relating to installment payments of tax on use of highway motor vehicles) and subsection (h) of section 6421 (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) are each amended by striking out “1984” and inserting in lieu thereof “1988”.

**(b) TERMINATION OF EXEMPTIONS.**—

(1)(A) Subsection (f) of section 4041 is amended by adding at the end thereof the following new paragraph:

“(3) **TERMINATION.**—On and after October 1, 1988, paragraph (1) shall not apply.”

(B) Subsection (g) of section 4041 is amended by adding at the end thereof the following new sentence: “Paragraphs (2) and (4) shall not apply on and after October 1, 1988.”

(2) Subsection (a) of section 4221 (relating to certain tax resales) is amended by adding at the end thereof the following new sentence: “In the case of taxes imposed by section 4051, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1988.”

(3) Section 4483 (relating to exemption for highway use tax) is amended by adding after subsection (d) thereof the following new subsection:

“(e) **TERMINATION OF EXEMPTIONS.**—Subsections (a) and (c) shall not apply on and after October 1, 1988.”

(4) Section 6420 (relating to gasoline used on farms) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **TERMINATION.**—This section shall apply only with respect to gasoline purchased before October 1, 1988.”

(5) Section 6427 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) **TERMINATION OF SUBSECTIONS (a), (b), (c), AND (d).**—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1988.”

**SEC. 517. TREATMENT OF CERTAIN MOTOR CARRIER OPERATING AUTHORITIES ACQUIRED BY TAXPAYERS OTHER THAN CORPORATIONS.**

(a) **GENERAL RULE.**—Paragraph (2) of section 266(c) of the Economic Recovery Tax Act of 1981 (relating to stock acquisitions of motor carrier operating authorities) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) **TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.**—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

“(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or

indirectly, any motor carrier operating authority at the time of such acquisition, and

“(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation, then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority.”

26 USC 368.

26 USC 165  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years ending after July 30, 1980.

26 USC 4081  
note.

**SEC. 518. EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.**

(a) **14-DAY EXTENSION.**—The Secretary shall prescribe regulations which permit any qualified person whose liability for tax under section 4081 of the Internal Revenue Code of 1954 is payable with respect to semi-monthly periods to pay such tax on or before the day which is 14 days after the close of such semi-monthly period if such payment is made by wire transfer to any government depository authorized under section 6302 of such Code.

26 USC 6302.

(b) **QUALIFIED PERSON DEFINED.**—For purposes of this section—

(1) **IN GENERAL.**—The term “qualified person” means—

(A) any person other than any person whose average daily production of crude oil for the preceding calendar quarter exceeds 1,000 barrels, and

26 USC 4995.

(B) any independent refiner (within the meaning of section 4995(b)(4) of such Code).

26 USC 4992.

(2) **AGGREGATION RULES.**—For purposes of paragraph (1), in determining whether any person's production exceeds 1,000 barrels per day, rules similar to the rules of section 4992(e) of the Internal Revenue Code of 1954 shall apply.

(c) **SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.**—If, but for this subsection, the due date under subsection (a) would fall on a Saturday, Sunday, or a holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

## Subtitle C—Floor Stock Provisions

26 USC 4061  
note.

**SEC. 521. FLOOR STOCKS TAXES.**

(a) **1983 TAX ON GASOLINE.**—On gasoline subject to tax under section 4081 which, on April 1, 1983, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 5 cents a gallon.

*Ante*, p. 2181.

(b) **1984 TAX ON TIRES.**—On any article which would be subject to tax under section 4071(a) if sold by the manufacturer, producer, or importer on or after January 1, 1984, which on January 1, 1984, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to the excess of the amount of tax which would be imposed on such article if it were sold by the manufacturer, producer, or importer after January 1, 1984,



over the amount of tax imposed under section 4071(a) on the sale of such article by the manufacturer, producer, or importer.

*Ante*, p. 2181.

(c) **OVERPAYMENT OF FLOOR STOCKS TAXES.**—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

(d) **DUE DATE OF TAXES.**—The taxes imposed by this section shall be paid at such time after—

(1) May 15, 1983, in the case of the tax imposed by subsection (a), or

(2) February 15, 1984, in the case of the tax imposed by subsection (b),

as may be prescribed by the Secretary of the Treasury or his delegate.

(e) **TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.**—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this section shall be treated as if they were imposed by section 4081 or 4071 of the Internal Revenue Code of 1954, whichever is appropriate.

26 USC 4081,  
4071.  
26 USC 4061  
note.

#### **SEC. 522. FLOOR STOCKS REFUNDS.**

(a) **GENERAL RULE.**—

(1) **IN GENERAL.**—Where, before the day after the date of the enactment of this Act, any tax-repealed article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on a request submitted to the manufacturer, producer, or importer before July 1, 1983, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before October 1, 1983, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) **LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.**—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061, 4071, or 4091 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

**(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—**

(1) **IN GENERAL.**—Except as otherwise provided in paragraph (2), where after December 2, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) **LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.**—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before October 1, 1983, based on information submitted to the manufacturer, producer, or importer before July 1, 1983, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before October 1, 1983, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) **CERTAIN USES BY MANUFACTURER, ETC.**—In the case of any article which was subject to the tax imposed by section 4061(a) (as in effect on the day before the date of the enactment of this Act), any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) with respect to a tax-repealed article shall be deemed to be an overpayment of such tax if tax was imposed on such article after December 2, 1982, by reason of section 4218(a).

(d) **TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.**—The Secretary of the Treasury shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made under this section.

26 USC 4061  
note.

**SEC. 523. DEFINITIONS AND SPECIAL RULE.**

(a) **IN GENERAL.**—For purposes of this subtitle—

(1) The term “dealer” includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as “held by a dealer” if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to

such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term “tax-repealed article” means any article on which a tax was imposed by section 4061(a), 4061(b), or section 4091 as in effect on the day before the date of the enactment of this Act, and which will not be subject to tax under section 4061(a), 4061(b), or 4091 as in effect on the day after the date of the enactment of this Act.

(4) Except as otherwise expressly provided herein, any reference in this subtitle to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

**(b) 1984 EXTENSION OF FLOOR STOCKS REFUND TO TIRES.—**

(1) **IN GENERAL.**—In the case of an article on which a tax was imposed by section 4071(a) as in effect on December 31, 1983, and which will not be subject to tax under such section as in effect on January 1, 1984, such article shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.

(2) **ALLOWANCE OF REFUND.**—In the case of a tax-repealed article to which paragraph (1) applies, subsection (a) of section 522 shall be applied—

(A) by treating January 1, 1984, as the day after the date of the enactment of this Act, and

(B) by substituting “1984” for “1983” each place it appears in paragraph (1) of such subsection (a).

## **Subtitle D—Highway Trust Fund; Mass Transit Account**

### **SEC. 531. 4-YEAR EXTENSION OF HIGHWAY TRUST FUND; CODIFICATION OF TRUST FUND IN INTERNAL REVENUE CODE OF 1954; ESTABLISHMENT OF MASS TRANSIT ACCOUNT.**

(a) **GENERAL RULE.**—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

**“SEC. 9503. HIGHWAY TRUST FUND.**

26 USC 9503.

“(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the ‘Highway Trust Fund’, consisting of such amounts as may be appropriated or credited to the Highway Trust Fund as provided in this section or section 9602(b).

“(b) **TRANSFER TO HIGHWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.**—

“(1) **IN GENERAL.**—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, 1988, under the following provisions—

Appropriation authorization.

“(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

“(B) section 4051 (relating to retail tax on heavy trucks and trailers),

“(C) section 4061 (relating to tax on trucks and truck parts),

“(D) section 4071 (relating to tax on tires and tread rubber),

“(E) section 4081 (relating to tax on gasoline),

“(F) section 4091 (relating to tax on lubricating oil), and

“(G) section 4481 (relating to tax on use of certain vehicles).

“(2) LIABILITIES INCURRED BEFORE OCTOBER 1, 1988.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, 1988, and before July 1, 1989, and which are attributable to liability for tax incurred before October 1, 1988, under the provisions described in paragraph (1).

“(3) ADJUSTMENTS FOR AVIATION USES.—The amounts described in paragraphs (1) and (2) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 9502(b) with respect to such period.

“(c) EXPENDITURES FROM HIGHWAY TRUST FUND.—

“(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1988, to meet those obligations of the United States heretofore or hereafter incurred which are—

“(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

“(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982, or

“(C) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.

“(2) TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.—

“(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

“(i) the amounts paid before July 1, 1989, under—

“(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

“(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

“(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes), and

“(IV) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before October 1, 1988, and

“(ii) the credits allowed under section 39 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1988.

28 USC 120 note.

*Ante*, pp. 2097,  
2137.

“(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

“(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to use of gasoline and special fuels in motorboats or in aircraft.

“(3) 1988 FLOOR STOCKS REFUNDS.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1989, under section 6412(a).

“(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

“(A) TRANSFER TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

“(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1988.

46 USC 1479a.

“(ii) LIMITATIONS.—

“(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$45,000,000.

“(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of \$45,000,000.

“(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under subparagraph (A) shall be transferred by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

“(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term ‘motorboat fuel taxes’ means the taxes under section 4041(a)(2) with respect to special motor fuels used as fuel in motorboats and under section 4081 with respect to gasoline used as fuel in motorboats.

16 USC 4601-4  
and note.

*Ante*, p. 2169.

“(d) ADJUSTMENTS OF APPORTIONMENTS.—

“(1) ESTIMATES OF UNFUNDED HIGHWAY AUTHORIZATIONS AND NET HIGHWAY RECEIPTS.—The Secretary of the Treasury, not less frequently than once in each calendar quarter, after consultation with the Secretary of Transportation, shall estimate—

“(A) the amount which would (but for this subsection) be the unfunded highway authorizations at the close of the next fiscal year, and

“(B) the net highway receipts for the 24-month period beginning at the close of such fiscal year.

“(2) PROCEDURE WHERE THERE IS EXCESS UNFUNDED HIGHWAY AUTHORIZATIONS.—If the Secretary of the Treasury determines for any fiscal year that the amount described in paragraph (1)(A) exceeds the amount described in paragraph (1)(B)—

“(A) he shall so advise the Secretary of Transportation, and

“(B) he shall further advise the Secretary of Transportation as to the amount of such excess.

“(3) ADJUSTMENT OF APPORTIONMENTS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS’ RECEIPTS.—

“(A) DETERMINATION OF PERCENTAGE.—If, before any apportionment to the States is made, in the most recent estimate made by the Secretary of the Treasury there is an excess referred to in paragraph (2)(B), the Secretary of Transportation shall determine the percentage which—

“(i) the excess referred to in paragraph (2)(B), is of

“(ii) the amount authorized to be appropriated from the Trust Fund for the fiscal year for apportionment to the States.

If, but for this sentence, the most recent estimate would be one which was made on a date which will be more than 3 months before the date of the apportionment, the Secretary of the Treasury shall make a new estimate under paragraph (1) for the appropriate fiscal year.

“(B) ADJUSTMENT OF APPORTIONMENTS.—If the Secretary of Transportation determines a percentage under subparagraph (A) for purposes of any apportionment, notwithstanding any other provision of law, the Secretary of Transportation shall apportion to the States (in lieu of the amount which, but for the provisions of this subsection, would be so apportioned) the amount obtained by reducing the amount authorized to be so apportioned by such percentage.

“(4) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—If, after funds have been withheld from apportionment under paragraph (3)(B), the Secretary of the Treasury determines that the amount described in paragraph (1)(A) does not exceed the amount described in paragraph (1)(B) or that the excess described in paragraph (1)(B) is less than the amount previously determined, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing the amount described in paragraph (1)(A) to exceed the amount described in paragraph (1)(B). Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) UNFUNDED HIGHWAY AUTHORIZATIONS.—The term ‘unfunded highway authorizations’ means, at any time, the excess (if any) of—

“(i) the total potential unpaid commitments at such time as a result of the apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund, over

“(ii) the amount available in the Highway Trust Fund at such time to defray such commitments (after all other unpaid commitments at such time which are payable from the Highway Trust Fund have been defrayed).

“(B) NET HIGHWAY RECEIPTS.—The term ‘net highway receipts’ means, with respect to any period, the excess of—

“(i) the receipts (including interest) of the Highway Trust Fund during such period, over

“(ii) the amounts to be transferred during such period from such Fund under subsection (c) (other than paragraph (1) thereof).

“(6) REPORTS.—Any estimate under paragraph (1) and any determination under paragraph (2) shall be reported by the Secretary of the Treasury to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committees on the Budget of both Houses, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

Submittal to congressional committees.

“(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the ‘Mass Transit Account’ consisting of such amounts as may be transferred or credited to the Mass Transit Account as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account one-ninth of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1988 (including capital expenditures for new projects) in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964.

49 USC 1617.

“(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting ‘12-month’ for ‘24-month’.”

(b) REPEAL OF SECTION 209 OF THE HIGHWAY REVENUE ACT OF 1956.—Section 209 of the Highway Revenue Act of 1956 (other than subsection (b) thereof) is hereby repealed.

23 USC 120 note.

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

16 USC 4601-11.

(1) by striking out “1985” each place it appears and inserting in lieu thereof “1989”; and

(2) by striking out “1984” and inserting in lieu thereof “1988”

(d) **CLERICAL AMENDMENT.**—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

“Sec. 9503. Highway Trust Fund.”

26 USC 9503  
note.

(e) **EFFECTIVE DATE; SAVING PROVISION.**—

(1) **IN GENERAL.**—The amendments made by this section shall take effect on January 1, 1983.

23 USC 120 note.

(2) **NEW HIGHWAY TRUST FUND TREATED AS CONTINUATION OF OLD.**—The Highway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Any reference in any law to the Highway Trust Fund established by such section 209 shall be deemed to include (wherever appropriate) a reference to the Highway Trust Fund established by the amendments made by this section.

## Subtitle E—Miscellaneous Provisions

26 USC 168.

### SEC. 541. TAX TREATMENT OF PUBLIC UTILITY PROPERTY.

(a) **NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.**—

(1) **IN GENERAL.**—Paragraph (3) of section 168(e) (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

“(C) **USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.**—

“(i) **IN GENERAL.**—One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (B).

“(ii) **USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.**—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

“(iii) **REGULATORY AUTHORITY.**—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).”

26 USC 167.

(2) **AMENDMENT TO SECTION 167 (l).**—Subparagraph (G) of section 167(l)(3) (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence: “For purposes of this subparagraph, rules similar to the rules of section 168(e)(3)(C) shall apply.”

26 USC 46.

(b) **COMPUTATIONS FOR PURPOSES OF INVESTMENT CREDIT.**—Subsection (f) of section 46 (relating to limitation in case of certain



regulated companies) is amended by adding at the end thereof the following new paragraph:

**“(10) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC., FOR PURPOSES OF PARAGRAPHS (1) AND (2).—**

**“(A) IN GENERAL.—**One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

**“(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—**The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base.

**“(C) REGULATORY AUTHORITY.—**The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A).”

**(c) EFFECTIVE DATES.—**

26 USC 46 note.

**(1) GENERAL RULE.—**The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1979.

**(2) SPECIAL RULE FOR PERIODS BEGINNING BEFORE MARCH 1, 1980.—**

**(A) IN GENERAL.—**Subject to the provisions of paragraphs (3) and (4), notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

26 USC 167,  
46.

(i) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such code, or rate base, or

(ii) any adjustments to the taxpayer's rate of return, shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

*Ante*, p. 2192.

**(B) QUALIFIED ORDER DEFINED.—**For purposes of this subsection, the term “qualified order” means an order—

(i) by a public utility commission which was entered before March 13, 1980,

(ii) which used the estimates, projections, or rate of return adjustments referred to in subparagraph (A) to determine the amount of the rates to be collected by

the taxpayer or the amount of a refund with respect to rates previously collected, and

(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(3) LIMITATIONS ON APPLICATION OF PARAGRAPH (2).—

(A) PARAGRAPH (2) NOT TO APPLY TO AMOUNTS ACTUALLY FLOWED THROUGH.—Paragraph (2) shall not apply to the amount of any—

(i) rate reduction, or

(ii) refund,

which was actually made pursuant to a qualified order.

(B) TAXPAYER MUST ENTER INTO CLOSING AGREEMENT BEFORE PARAGRAPH (2) APPLIES.—Paragraph (2) shall not apply to any taxpayer unless, before the later of—

(i) July 1, 1983, or

(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order,

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1954) which provides for the payment by the taxpayer of the amount of which paragraph (2) does not apply by reason of subparagraph (A).

(4) SPECIAL RULES RELATING TO PAYMENT OF REFUNDS OR INTEREST BY THE UNITED STATES OR THE TAXPAYER.—

(A) REFUND DEFINED.—For purposes of this subsection, the term “refund” shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund (or credit) under such order.

(B) NO INTEREST PAYABLE BY UNITED STATES.—No interest shall be payable under section 6611 of the Internal Revenue Code of 1954 on any overpayment of tax which is attributable to the application of paragraph (2).

(C) PAYMENTS MAY BE MADE IN TWO EQUAL INSTALLMENTS.—

(i) IN GENERAL.—The taxpayer may make any payment required by reason of paragraph (3) in 2 equal installments, the first installment being due on the last date on which a taxpayer may enter into a closing agreement under paragraph (3)(B), and the second payment being due 1 year after the last date for the first payment.

(ii) INTEREST PAYMENTS.—For purposes of section 6601 of such Code, the last date prescribed for payment with respect to any payment required by reason of paragraph (3) shall be the last date on which such payment is due under clause (i).

(5) NO INFERENCE.—The application of subparagraph (G) of section 167(l)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section or from the rules contained in paragraphs (2), (3), and (4). Nothing in the

26 USC 7121.

26 USC 6611.

*Ante*, p. 2192.

preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4).

**SEC. 542. NO RETURN REQUIRED OF INDIVIDUAL WHOSE ONLY GROSS INCOME IS GRANT OF \$1,000 FROM STATE.**

26 USC 6012  
note.

(a) **IN GENERAL.**—Nothing in section 6012(a) of the Internal Revenue Code of 1954 shall be construed to require the filing of a return with respect to income taxes under subtitle A of such code by an individual whose only gross income for the taxable year is a grant of \$1,000 received from a State which made such grants generally to residents of such State.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to taxable years beginning after December 31, 1981.

**SEC. 543. DEDUCTION FOR CONVENTIONS ON CRUISE SHIPS.**

(a) **IN GENERAL.**—Subsection (h) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended—

26 USC 274.

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: “unless the taxpayer meets the requirements of paragraph (5) and establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that—

“(A) the cruise ship is a vessel registered in the United States; and

“(B) all ports of call of such cruise ship are located in the United States or in possessions of the United States.

With respect to cruises beginning in any calendar year, not more than \$2,000 of the expenses attributable to an individual attending one or more meetings may be taken into account under section 162 or 212 by reason of the preceding sentence.”, and

(2) by adding at the end thereof the following new paragraph:

“(5) **REPORTING REQUIREMENTS.**—No deduction shall be allowed under section 162 or 212 for expenses allocable to attendance at a convention, seminar, or similar meeting on any cruise ship unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

“(A) a written statement signed by the individual attending the meeting which includes—

Written  
statement.

“(i) information with respect to the total days of the trip, excluding the days of transportation to and from the cruise ship port, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

“(ii) a program of the scheduled business activities of the meeting, and

“(iii) such other information as may be required in regulations prescribed by the Secretary; and

“(B) a written statement signed by an officer of the organization or group sponsoring the meeting which includes—

“(i) a schedule of the business activities of each day of the meeting,

“(ii) the number of hours which the individual attending the meeting attended such scheduled business activities, and

“(iii) such other information as may be required in regulations prescribed by the Secretary.”

Effective date.  
26 USC 274 note.

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

**SEC. 544. ADDITIONAL WEEKS OF FEDERAL SUPPLEMENTAL COMPENSATION.**

*Ante*, p. 702.

(a) Section 602(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) in paragraph (2)(A)(i), by striking out “50” and inserting in lieu thereof “65”;

(2) in paragraph (2)(A)(ii), by striking out “6” and inserting in lieu thereof “8”;

(3) by striking out subparagraphs (B) and (C) of paragraph (2) and inserting in lieu thereof the following:

“(B) In the case of any State, subparagraph (A) shall be applied—

“(i) with respect to weeks during a higher unemployment period, by substituting ‘16’ for ‘8’ in clause (ii) thereof;

“(ii) with respect to weeks which are not during a higher unemployment period and which are weeks beginning on or after the first week of an extended benefit period (which was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week beginning on or after June 1, 1982, on or before the date of the enactment of the Highway Revenue Act of 1982, and before the week for which the compensation is paid), by substituting ‘14’ for ‘8’ in clause (ii) thereof;

“(iii) with respect to weeks during a high unemployment period, or which would be weeks described in clause (ii) except that the extended benefit period began after the date of enactment of the Highway Revenue Act of 1982, by substituting ‘12’ for ‘8’ in clause (ii) thereof; and

“(iv) with respect to weeks during an intermediate unemployment period, by substituting ‘10’ for ‘8’.

“(C) For purposes of subparagraph (B), the term ‘higher unemployment period’ means, with respect to any State, the period—

“(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 6.0 percent, and

“(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 6.0 percent;

except that no higher unemployment period shall last for a period of less than 4 weeks.

“(D) For purposes of subparagraph (B), the term ‘high unemployment period’ means, with respect to any State, the period—

“(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.5 percent but is less than 6.0 percent, and

“(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.5 percent or equals or exceeds 6.0 percent;

26 USC 3304  
note.

*Ante*, p. 2168.

“Higher  
unemployment  
period.”

“High  
unemployment  
period.”

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a higher unemployment period or a period described in subparagraph (B)(ii).

“(E) For purposes of subparagraph (B), the term ‘intermediate unemployment period’ means with respect to any State, the period—

“Intermediate unemployment period.”

“(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent but is less than 4.5 percent, and

“(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent or equals or exceeds 4.5 percent; except that no intermediate unemployment period shall last for a period of less than 4 weeks unless such State enters a high unemployment period, a higher unemployment period, or a period described in subparagraph (B) (ii) or (iii).

“(F) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

26 USC 3304 note.

“(3) The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual’s account established under this subsection.”

26 USC 3304 note.

(b) The amendments made by subsection (a) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) prior to the first week beginning on or after such date of enactment, such individual’s eligibility for additional weeks of compensation by reason of the amendments made by this section shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Tax Equity and Fiscal Responsibility Act of 1982).

*Ante*, p. 702.

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Tax Equity and Fiscal Responsibility Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement

effective with the end of the last week which ends on or before such three-week period.

*Post*, p. 2411. (d) Paragraph (3) of section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 (as added by section 310 of the Technical Corrections Act of 1982) is amended by striking out "the number '6', '8', or '10', whichever is applicable" and inserting in lieu thereof "the number applicable".

**SEC. 545. EXCLUSION OF CERTAIN HOME ENERGY ASSISTANCE FROM INCOME UNDER SSI AND AFDC.**

42 USC 1382a.

(a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(13) any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B) is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy."

42 USC 602.

(b) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (34);

(2) by striking out the period at the end of paragraph (35) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(36) provide, at the option of the State, that in making the determination for any month under paragraph (7) the State agency shall not include as income any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B) is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy."

Effective date.

42 USC 602 note.

(c) The amendments made by subsections (a) and (b) shall be effective with respect to home energy assistance received in months beginning on or after the date of the enactment of this Act and prior to July 1, 1985.

Report to Congress.  
42 USC 602  
note.

42 USC 1382a,  
602.

(d) The Secretary of Health and Human Services shall submit a report to the Congress, prior to April 1, 1985, on the implementation and results of the provisions of sections 1612(b)(13) and 402(a)(36) of the Social Security Act, including any recommendations with respect to whether such provisions should be extended in the same or modified form or allowed to expire.

**SEC. 546. MODIFICATIONS TO CHLOR-ALKALI ELECTROLYTIC CELLS.**

26 USC 48.

(a) Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

(1) by striking out “or” at the end of subparagraph (L),  
 (2) by redesignating subparagraph (M) as subparagraph (N)  
 and by inserting after subparagraph (L) the following new  
 subparagraph:

“(M) modifications to chlor-alkali electrolytic cells, or”; and

(3) by striking out “(M)” in the second sentence and inserting  
 in lieu thereof “(N)”.

(b) The table contained in clause (i) of section 46(a)(2)(C) (relating  
 to amount of credit) is amended by adding at the end thereof the  
 following new subsection:

26 USC 46.

“VII. CHLOR-ALKALI ELEC- TROLYTIC CELLS—Property described in section 48(1)(5)(M) .....	10 percent	Jan. 1, 1980	Dec. 31, 1982.”
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**SEC. 547. INTEREST EXEMPT OTHER THAN UNDER THE INTERNAL REVE-  
NUE CODE OF 1954.**

(a) **IN GENERAL.**—Section 103 (relating to interest on certain  
 governmental obligations) is amended by redesignating subsection  
 (m) as subsection (n) and by inserting after subsection (l) the follow-  
 ing new subsection:

*Ante*, p. 469.

“(m) **OBLIGATIONS EXEMPT OTHER THAN UNDER THIS TITLE.**—

“(1) **PRIOR EXEMPTIONS.**—For purposes of this title, notwith-  
 standing any provisions of this section or section 103A any  
 obligation the interest on which is exempt from taxation under  
 this title under any provision of law which is in effect on the  
 date of the enactment of this subsection (other than a provision  
 of this title) shall be treated as an obligation described in  
 subsection (a).

“(2) **NO OTHER INTEREST TO BE EXEMPT EXCEPT AS PROVIDED BY  
 THIS TITLE.**—Notwithstanding any other provision of law, no  
 interest on any obligation shall be exempt from taxation under  
 this title unless such interest—

“(A) is on an obligation described in paragraph (1), or

“(B) is exempt from taxation under any provision of this  
 title.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 851(b) (relating to definition of regulated invest-  
 ment company) is amended by striking out “103(a)(1)” and  
 inserting in lieu thereof “103(a)”.

26 USC 851.

(2) Section 852 (relating to taxation of regulated investment  
 companies and their shareholders) is amended by striking out  
 “103(a)(1)” each place it appears and inserting in lieu thereof  
 “103(a)”.

26 USC 852.

*Ante*, p. 580.

(3) Section 3454(a)(2)(B) (relating to definitions of interest, dividend, and patronage dividends) is amended by striking out “law” and inserting in lieu thereof “this title”.

*Ante*, p. 591.

(4) Section 6049(b)(2)(B) (relating to returns regarding payments of interest) is amended by striking out “law” and inserting in lieu thereof “this title”.

26 USC 6362.

(5) Section 6362(b)(4)(A) (relating to qualified State individual income taxes) is amended by striking out “103(a)(1)” and inserting in lieu thereof “103(a)”.

Approved January 6, 1983.

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**LEGISLATIVE HISTORY—H.R. 6211:**

HOUSE REPORTS: No. 97-555 (Comm. on Public Works and Transportation) and No. 97-987 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 6, considered and passed House.

Dec. 10, 13-16, 19-21, considered and passed Senate, amended.

Dec. 21, House agreed to conference report.

Dec. 21, 23, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):  
Jan. 6, Presidential statement.



Public Law 97-425  
97th Congress

An Act

To provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

Jan. 7, 1983

[H.R. 3809]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Nuclear Waste  
Policy Act of  
1982.  
42 USC 10101  
note.

SHORT TITLE AND TABLE OF CONTENTS

**SECTION 1.** This Act may be cited as the “Nuclear Waste Policy Act of 1982”.

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.
- Sec. 3. Separability.
- Sec. 4. Territories and possessions.
- Sec. 5. Ocean disposal.
- Sec. 6. Limitation on spending authority.
- Sec. 7. Protection of classified national security information.
- Sec. 8. Applicability.
- Sec. 9. Applicability.

**TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE**

Sec. 101. State and affected Indian tribe participation in development of proposed repositories for defense waste.

**SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL**

- Sec. 111. Findings and purposes.
- Sec. 112. Recommendation of candidate sites for site characterization.
- Sec. 113. Site characterization.
- Sec. 114. Site approval and construction authorization.
- Sec. 115. Review of repository site selection.
- Sec. 116. Participation of States.
- Sec. 117. Consultation with States and Indian tribes.
- Sec. 118. Participation of Indian tribes.
- Sec. 119. Judicial review of agency actions.
- Sec. 120. Expedited authorizations.
- Sec. 121. Certain standards and criteria.
- Sec. 122. Disposal of spent nuclear fuel.
- Sec. 123. Title to material.
- Sec. 124. Consideration of effect of acquisition of water rights.
- Sec. 125. Termination of certain provisions.

**SUBTITLE B—INTERIM STORAGE PROGRAM**

- Sec. 131. Findings and purposes.
- Sec. 132. Available capacity for interim storage of spent nuclear fuel.
- Sec. 133. Interim at-reactor storage.
- Sec. 134. Licensing of facility expansions and transshipments.
- Sec. 135. Storage of spent nuclear fuel.
- Sec. 136. Interim Storage Fund.
- Sec. 137. Transportation.

## SUBTITLE C—MONITORED RETRIEVABLE STORAGE

Sec. 141. Monitored retrievable storage.

## SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

Sec. 151. Financial arrangements for site closure.

**TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL**

Sec. 211. Purpose.

Sec. 212. Applicability.

Sec. 213. Identification of sites.

Sec. 214. Siting research and related activities.

Sec. 215. Test and evaluation facility siting review and reports.

Sec. 216. Federal agency actions.

Sec. 217. Research and development on disposal of high-level radioactive waste.

Sec. 218. Research and development on spent nuclear fuel.

Sec. 219. Payments to States and affected Indian tribes.

Sec. 220. Study of research and development needs for monitored retrievable storage proposal.

Sec. 221. Judicial review.

Sec. 222. Research on alternatives for the permanent disposal of high-level radioactive waste.

Sec. 223. Technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

**TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE**

Sec. 301. Mission plan.

Sec. 302. Nuclear Waste Fund.

Sec. 303. Alternate means of financing.

Sec. 304. Office of Civilian Radioactive Waste Management.

Sec. 305. Location of test and evaluation facility.

Sec. 306. Nuclear Regulatory Commission training authorization.

**DEFINITIONS**

42 USC 10101.

**SEC. 2. For purposes of this Act:**

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials by-products management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in

section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

*Post*, p. 2262.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

*Post*, p. 2237.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral

excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term “unit of general local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term “Waste Fund” means the Nuclear Waste Fund established in section 302(c).

*Post*, p. 2257.

#### SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. 42 USC 10102.

#### TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491). 42 USC 10103.

#### OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.). 42 USC 10104.

#### LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts. 42 USC 10105.

#### PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information. 42 USC 10106.

#### APPLICABILITY

SEC. 8. (a) **ATOMIC ENERGY DEFENSE ACTIVITIES.**—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity. 42 USC 10107.

(b) **EVALUATION BY PRESIDENT.**—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost

*Post*, p. 2207.

efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste. Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, into the special account established under section 302.

*Post*, p. 2207.

*Post*, p. 2257.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) **APPLICABILITY TO CERTAIN REPOSITORIES.**—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

#### APPLICABILITY

42 USC 10108.

**SEC. 9. TRANSPORTATION.**—Nothing in this Act shall be construed to affect Federal, State, or local laws pertaining to the transportation of spent nuclear fuel or high-level radioactive waste.

#### TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

##### STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

42 USC 10121.

**SEC. 101. (a) NOTIFICATION TO STATES AND AFFECTED INDIAN TRIBES.**—Notwithstanding the provisions of section 8, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) **PARTICIPATION OF STATES AND AFFECTED INDIAN TRIBES.**—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that

any financial assistance authorized to be provided to such State or affected Indian tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

**SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL  
RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL**

**FINDINGS AND PURPOSES**

**SEC. 111. (a) FINDINGS.**—The Congress finds that—

42 USC 10131.

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

**(b) PURPOSES.**—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities

relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

#### RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

42 USC 10132.

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall nominate at least 5 sites that he determines suitable for site characterization for selection of the first repository site.

(B) Subsequent to such nomination, the Secretary shall recommend to the President 3 of the nominated sites not later than January 1, 1985 for characterization as candidate sites.

(C) Not later than July 1, 1989, the Secretary shall nominate 5 sites, which shall include at least 3 additional sites not nominated under subparagraph (A), and recommend by such date to the President from such 5 nominated sites 3 candidate sites the Secretary determines suitable for site characterization for selection of the second repository. The Secretary may not nominate any site previ-

Recommendation date.



ously nominated under subparagraph (A), that was not recommended as a candidate site under subparagraph (B).

(D) Such recommendations under subparagraphs (B) and (C) shall be consistent with the provisions of section 305.

(E) Each nomination of a site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(v) a description of the decision process by which such site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such site.

(F)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (E).

(G) Each environmental assessment prepared under this paragraph shall be made available to the public.

(H) Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such nomination and the basis for such nomination.

(2) Before nominating any site the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located of the proposed nomination of such site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(3) In evaluating the sites nominated under this section prior to any decision to recommend a site as a candidate site, the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at a site unless (i) such preliminary boring or excavation activities were in progress upon the date of enactment of this Act or (ii) the Secretary certifies that such available informa-

*Post*, p. 2262.

Environmental  
assessment.

Judicial review.

5 USC 701 *et seq.*

Public  
availability.

Hearings.

tion from other sources, in the absence of preliminary borings or excavations, will not be adequate to satisfy applicable requirements of this Act or any other law: *Provided*, That preliminary borings or excavations under this section shall not exceed a diameter of 6 inches.

Decision  
transmittal or  
notification.

(c) **PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.**—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) **CONTINUATION OF CANDIDATE SITE SCREENING.**—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) **PRELIMINARY ACTIVITIES.**—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) **TIMELY SITE CHARACTERIZATION.**—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the

candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within one year of the date of enactment.

Hearings.

#### SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

42 USC 10133.

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

Plan submittal,  
review and  
comment

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

- (i) a description of such candidate site;
- (ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;
- (iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;
- (iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and
- (v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

Public  
availability;  
hearings.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

Report.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

Notification of  
site termination.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

## SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent repositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste. Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed repository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and

42 USC 10134.

Notification of decision.

Public availability.

the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

Submittal to  
Congress.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After submission of the second such recommendation, the President may submit to the Congress recommendations for other sites, in accordance with the provisions of this subtitle.

Deadlines,  
extensions.

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986, for the first site, and March 31, 1989, for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

Submittal to  
Congress.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and

legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) **STATUS REPORT ON APPLICATION.**—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

(d) **COMMISSION ACTION.**—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within 50 miles of the first repository, then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second repository is in operation.

(e) **PROJECT DECISION SCHEDULE.**—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to

Construction  
authorization  
application.

Report submittal  
to Secretary and  
Congress.

Report response,  
filing with  
Congress.

meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

42 USC 4321 *et*  
*seq.*

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 1321 *et seq.*) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a). The Secretary shall consider as alternative sites for subsequent repositories at least three of the remaining sites recommended by the Secretary by January 1, 1985, and by July 1, 1989, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a). Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*). Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission as established in title II of the Energy Reorganization Act of 1974 (Public Law 93-438). In

42 USC 5841.



any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

#### REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) **DEFINITION.**—For purposes of this section, the term “resolution of repository siting approval” means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: “That there hereby is approved the site at ..... for a repository, with respect to which a notice of disapproval was submitted by ..... on .....”. The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

42 USC 10135.

(b) **STATE OR INDIAN TRIBE PETITIONS.**—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

Notice of  
disapproval,  
submittal to  
Congress.

(c) **CONGRESSIONAL REVIEW OF PETITIONS.**—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) **PROCEDURES APPLICABLE TO THE SENATE.**—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of

Introduction of  
resolution.

repository siting approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

Committee  
recommendations.

(B) Upon introduction, a resolution of repository siting approval shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

Discharge of  
committee.

(3) If any committee to which is referred a resolution of siting approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

Debate.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

Appeals.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—

(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

Discharge of  
committee.

Resolution,  
consideration  
and debate.

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) **COMPUTATION OF DAYS.**—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) **INFORMATION PROVIDED TO CONGRESS.**—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

#### PARTICIPATION OF STATES

42 USC 10136.

**SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.**—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within 90 days after the date of enactment of this Act. Within 90 days of such identification, the Secretary shall notify the Governor, the State legislature, and the tribal council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term “potentially acceptable site” means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

“Potentially acceptable site.”

**(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.**—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

Notice of disapproval, submittal to Congress.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a state-

ment of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

Grants.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

Construction authorization.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

Report submittal.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants,  
limitations.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding  
limitations.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

*Post*, p. 2257.

(d) **ADDITIONAL NOTIFICATION AND CONSULTATION.**—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

#### CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

42 USC 10137.

**SEC. 117. (a) PROVISION OF INFORMATION.**—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the

governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characterization siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, has received the written response to such written request required by this subsection.

Information  
request,  
response.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under section 116(a) to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such

Report to  
Congress.

Report, review  
and comments.

report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

Review and  
modification.

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

Report.

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

Transportation  
of radioactive  
waste and spent  
nuclear fuel,  
State  
notification.  
Monitoring and  
testing.

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.



## PARTICIPATION OF INDIAN TRIBES

**SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.**—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

Notice of  
disapproval,  
submittal to  
Congress  
42 USC 10138.

**(b) FINANCIAL ASSISTANCE.**—(1) The Secretary shall make grants to each affected tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such tribe, may not be considered eligible for funding under this paragraph.

Grants.

**(2)(A)** The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

**(B)** The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

**(3)(A)** The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commis-

sion of a construction authorization for such repository and following the initiation of construction activities at such site.

Report  
submittal.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants,  
limitation.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(6) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

*Post*, p. 2257.

#### JUDICIAL REVIEW OF AGENCY ACTIONS

**SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—**  
(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

42 USC 10139.

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(c)(2); or

(F) for review of any research and development activity under title II.

*Post*, p. 2245.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) **DEADLINE FOR COMMENCING ACTION.**—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

#### EXPEDITED AUTHORIZATIONS

**SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.**—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

42 USC 10140.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) **TERMS OF AUTHORIZATIONS.**—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

#### CERTAIN STANDARDS AND CRITERIA

42 USC 10141.

**SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.**—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) **COMMISSION REQUIREMENTS AND CRITERIA.**—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

- (i) applications for authorization to construct repositories;
- (ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and
- (iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

(c) **ENVIRONMENTAL IMPACT STATEMENT.**—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

#### DISPOSAL OF SPENT NUCLEAR FUEL

42 USC 10142.

**SEC. 122.** Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent

nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

#### TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel. 42 USC 10143.

#### CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable. 42 USC 10144.

#### TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel. 42 USC 10145.

#### SUBTITLE B—INTERIM STORAGE PROGRAM

##### FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that— 42 USC 10151.

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such

reactors when needed to assure the continued, orderly operation of such reactors.

(b) **PURPOSES.**—The purposes of this subtitle are—

- (1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and
- (2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

**AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL**

42 USC 10152.

**SEC. 132.** The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

- (1) the protection of the public health and safety, and the environment;
- (2) economic considerations;
- (3) continued operation of such reactor;
- (4) any applicable provisions of law; and
- (5) the views of the population surrounding such reactor.

**INTERIM AT REACTOR STORAGE**

Licensing  
procedures.  
42 USC 10153

**SEC. 133.** The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

**LICENSING OF FACILITY EXPANSIONS AND TRANSHIPMENTS**

42 USC 10154.

**SEC. 134. (a) ORAL ARGUMENT.**—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall

provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

Summary  
submittal of  
facts, data and  
arguments.

(b) **ADJUDICATORY HEARING.**—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

#### STORAGE OF SPENT NUCLEAR FUEL

42 USC 10155.  
*Ante*, p. 2205.

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.



(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term “facility” means any building or structure.

“Facility.”

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a) (1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any

Public  
availability.

Environmental  
assessment.

provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

- (i) an estimate of the amount of storage capacity to be made available at such site;
- (ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;
- (iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;
- (iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;
- (v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;
- (vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and
- (vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

Judicial review

5 USC 701 *et seq.*

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION.—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

Investigation.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigation. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State

for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

Guidelines.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

Cooperative agreement.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

"Process of consultation and cooperation."

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

Report to Congress.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the

Notice of  
disapproval,  
submittal to  
Congress.

Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at \_\_\_\_\_, with respect to which a notice of disapproval was submitted by \_\_\_\_\_ on \_\_\_\_\_." The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

*Ante*, p. 2217.  
"Resolution."

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

"Affected Tribal  
Council."

(7) As used in this section, the term "affected Tribal Council" means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site for such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) **LIMITATIONS.**—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) **REPORT.**—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) **CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.**—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission.

5 USC 553.

(h) **APPLICATION.**—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) **COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.**—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

#### INTERIM STORAGE FUND

**SEC. 136. (a) CONTRACTS.**—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in

42 USC 10156.

amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

Study; report to Congress.

Publication in Federal Register.

Fees.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in section 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) **LIMITATION.**—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) **ESTABLISHMENT OF INTERIM STORAGE FUND.**—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) **USE OF STORAGE FUND.**—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

(e) **IMPACT ASSISTANCE.**—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: *Provided, however,* That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) \$15 per kilogram of spent fuel, whichever is less;

Payments.

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

Regulations.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term “unit of local government” means a county, parish, township, municipality, and shall include a

“Unit of local government.”

borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

Report to  
Congress.

(f) **ADMINISTRATION OF STORAGE FUND.**—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

Budget  
submittal.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

*Ante*, p. 907.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

*Ante*, p. 927.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of



title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

*Ante*, p. 937.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Interest  
payments.

Deferral.

SEC. 137. (a) TRANSPORTATION.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

42 USC 10157.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

## SUBTITLE C—MONITORED RETRIEVABLE STORAGE

### MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

42 USC 10161.

(1) long-term storage of high-level radioactive waste or spent nuclear fuel in monitored retrievable storage facilities is an option for providing safe and reliable management of such waste or spent fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that site-specific designs for such facilities are available as provided in this section;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have the responsibility to pay the costs of the long-term storage of such waste and spent fuel; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed

regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) **SUBMISSION OF PROPOSAL BY SECRETARY.**—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

Consultations.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least 3 alternative sites and at least 5 alternative combinations of such proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full analysis of the relative advantages and disadvantages of all 5 such alternative combinations of proposed sites and proposed facility designs.

Environmental  
assessment.

(c) **ENVIRONMENTAL IMPACT STATEMENTS.**—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available

information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

Submittal to Congress.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(f) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

Payments.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

Regulations.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 302(c) and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

Consultations.

(g) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. The restriction in the preceding sentence shall

*Ante*, p. 2208.

only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository.

*Ante*, pp. 2217,  
2220, 2222, 2225.

(h) **PARTICIPATION OF STATES AND INDIAN TRIBES.**—Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

#### **SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE**

##### **FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE**

42 USC 10171.

**SEC. 151. (a) FINANCIAL ARRANGEMENTS.**—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) **TITLE AND CUSTODY.**—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

## TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

### PURPOSE

SEC. 211. It is the purpose of this title—

42 USC 10191.

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this title—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

### APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste, transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities.

42 USC 10192.  
*Ante*, p. 2205.

### IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environ-

42 USC 10193.

mental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) **SITE IDENTIFICATION BY THE SECRETARY.**—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

Environmental  
assessment.

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site

is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

#### SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

42 USC 10194.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsection (a) or (b) of section 302 for the disposal of such material.

#### TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term “process of consultation and cooperation” means a methodology—

42 USC 10195.

“Process of consultation and cooperation.”

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) **WRITTEN AGREEMENTS.**—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) **LIMITATION.**—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

#### FEDERAL AGENCY ACTIONS

42 USC 10196.

**SEC. 216. (a) COOPERATION AND COORDINATION.**—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) **ENVIRONMENTAL REVIEW.**—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42



U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL  
RADIOACTIVE WASTE**

**SEC. 217. (a) PURPOSE.**—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

42 USC 10197.

Environmental  
assessment.

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

**(b) DESIGN.**—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the

Testing.

initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

(c) **OPERATION.**—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) **USE OF EXISTING DEPARTMENT FACILITIES.**—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of

generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) **ENGINEERED BARRIERS.**—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) **ROLE OF COMMISSION.**—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) **ENVIRONMENTAL REVIEW.**—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) **LIMITATIONS.**—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

Termination.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes; whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

#### RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

42 USC 10198.

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support

and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) **DRY STORAGE RESEARCH AND DEVELOPMENT.**—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) **FUNDING.**—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) **RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.**—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

Report to congressional committees.

#### PAYMENTS TO STATES AND INDIAN TRIBES

**SEC. 219. (a) PAYMENTS.**—Subject to subsection (b), the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the

42 USC 10199.

Secretary under this paragraph shall not exceed \$3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) **LIMITATION.**—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

#### STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

Report to  
Congress.  
42 USC 10200.

**SEC. 220.** Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

#### JUDICIAL REVIEW

42 USC 10201.  
*Ante*, p. 2227.  
42 USC 10202.

**SEC. 221.** Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

**SEC. 222. RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE.**—The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

#### TECHNICAL ASSISTANCE TO NON-NUCLEAR WEAPON STATES IN THE FIELD OF SPENT FUEL STORAGE AND DISPOSAL

42 USC 10203.

**SEC. 223.** (a) It shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

Joint notice,  
publication in  
Federal  
Register.

(b)(1) Within 90 days of enactment of this Act, the Secretary and the Commission shall publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation

of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

(2) The joint notice described in the preceding subparagraph shall be updated and reissued annually for 5 succeeding years.

Joint notice,  
reissuance.

(c) Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission.

Expressions of  
interest.

(d) With his budget presentation materials for the Department and the Commission for fiscal years 1984 through 1989, the President shall include funding requests for an expanded program of cooperation and technical assistance with non-nuclear weapon states in the fields of spent fuel storage and disposal as appropriate in light of expressions of interest in such cooperation and assistance on the part of non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators.

(e) For the purposes of this subsection, the term "non-nuclear weapon state" shall have the same meaning as that set forth in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.C. 438).

"Non-nuclear  
weapon state."

(f) Nothing in this subsection shall authorize the Department or the Commission to take any action not authorized under existing law.

### TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

#### MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include—

42 USC 10221.

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scien-

tific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will

*Ante*, p. 2208.



be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) **SUBMISSION OF MISSION PLAN.**—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

Publication in  
Federal  
Register.  
Public  
inspection and  
agency  
comments.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

Plan submittal  
to congressional  
committees.

#### NUCLEAR WASTE FUND

**SEC. 302. (a) CONTRACTS.**—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

42 USC 10222.

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

Fees.

Fees.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

*Ante*, p. 2229.

Collection and  
payment  
procedures.  
Review.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

Transmittal to  
Congress.

42 USC 6421.

(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

Disposal  
services, terms  
and conditions.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

License renewal  
or issuance.

(b) **ADVANCE CONTRACTING REQUIREMENT.**—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste; whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

Disposal of radioactive waste or spent nuclear fuel.

(c) **ESTABLISHMENT OF NUCLEAR WASTE FUND.**—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) **USE OF WASTE FUND.**—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

*Ante*, pp. 2206, 2245.

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

*Ante*, pp. 2220,  
2225, 2253.

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219. No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

Report to  
Congress.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

Budget  
submittal.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

*Ante*, p. 907.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

*Ante*, p. 927.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

*Ante*, p. 937.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Interest  
payments.

Deferral.

#### ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

Study.  
42 USC 10223.

Report to  
Congress.

#### OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 304. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste

42 USC 10224.

Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) **FUNCTIONS OF DIRECTOR.**—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) **ANNUAL REPORT TO CONGRESS.**—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) **ANNUAL AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

Report to  
Congress.

#### LOCATION OF TEST AND EVALUATION FACILITY

42 USC 10225.

**SEC. 305. (a) REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) **PROCEDURES.**—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

*Ante*, p. 2206.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

*Ante*, p. 2217.

#### NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION

Regulations or  
guidance.  
42 USC 10226.

**SEC. 306. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.**—The Nuclear Regulatory Commission is authorized and directed to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator re-

qualification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs. Such regulations or other regulatory guidance shall be promulgated by the Commission within the 12-month period following enactment of this Act, and the Commission within the 12-month period following enactment of this Act shall submit a report to Congress setting forth the actions the Commission has taken with respect to fulfilling its obligations under this section.

Report to  
Congress.

Approved January 7, 1983.

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**LEGISLATIVE HISTORY—H.R. 3809:**

HOUSE REPORT No. 97-491 pt.1 (Comm. on Interior and Insular Affairs) and pt. 2 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 30, Nov. 29, 30, Dec. 2, considered and passed House.

Dec. 20, considered and passed Senate, amended; House agreed to Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):

Jan. 7, Presidential statement.

Public Law 97-426  
97th Congress

An Act

Jan. 8, 1983

[H.R. 2475]

To modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, California, and for other purposes.

Mono County,  
Calif.  
Land  
withdrawal and  
exchange.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding the Act of March 4, 1931 (46 Stat. 1530-1548), or any other provision of law, the following described lands, situated in Mono County, California, and comprising approximately 202.167 acres, are withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws: The southeast quarter of the southeast quarter of section 23, the west half of the northwest quarter of section 25, and the north half of the northeast quarter of section 26, all in township 5 south, range 32 east, Mount Diablo meridian, California.

SEC. 2. Notwithstanding the first section of the Act of March 4, 1931 (46 Stat. 1530, 1532), the withdrawal accomplished by said Act of March 4, 1931, of the lands described as the southwest quarter of section 34, township 5 south, range 33 east, Mount Diablo meridian, comprising approximately 160 acres, situated in Mono County, California, is hereby modified to the extent that the lands described in this section may be exchanged by the Secretary of the Interior in accordance with the directive contained in section 3 of this Act.

Title and deed.

SEC. 3. Notwithstanding any other provision of law, the Secretary of the Interior is hereby authorized to exchange the Federal lands described in section 2 of this Act for the lands described in section 1 of this Act, the title to the lands to be acquired by the United States to be satisfactory in all respects to the Secretary and to be conveyed by a good and sufficient deed, in recordable form, that is satisfactory to the Secretary.

Approved January 8, 1983.

LEGISLATIVE HISTORY—H.R. 2475:

HOUSE REPORT No. 97-358 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-371 (Comm. on Energy and Natural Resources)

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): May 10, considered and passed Senate, amended.

Sept. 13, House concurred in Senate amendment and disagreed to other Senate amendments.

Dec. 19, Senate receded from its amendments in disagreement.



Public Law 97-427  
97th Congress

An Act

To recognize the organization known as Former Members of Congress.

Jan. 8, 1983

[H.R. 7423]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Former  
Members  
of Congress.  
Incorporation.

CHARTER

SECTION 1. Former Members of Congress, organized and incorporated under the Nonprofit Corporation Act of the District of Columbia, is hereby recognized as such and is granted a charter.

36 USC 2201.

POWERS

SEC. 2. Former Members of Congress (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

36 USC 2202

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include the promotion of the cause of good government at the national level by improving the public understanding of the United States Congress as an institution and strengthening its support by the public. The corporation shall function as an educational, patriotic, civic, historical, and research organization as authorized by the laws of the State or States wherein it is incorporated.

36 USC 2203.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 2204.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

36 USC 2205.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

36 USC 2206.

**OFFICERS OF CORPORATION**

36 USC 2207.

**SEC. 7.** The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

**RESTRICTIONS**

36 USC 2208.

**SEC. 8. (a)** No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

**(b)** The corporation shall not make any loan to any officer, director, or employee of the corporation.

**(c)** The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

**(d)** The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

**(e)** The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

**LIABILITY**

36 USC 2209.

**SEC. 9.** The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

**BOOKS AND RECORDS; INSPECTION**

36 USC 2210.

**SEC. 10.** The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

**AUDIT OF FINANCIAL TRANSACTIONS**

**SEC. 11.** The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(59) Former Members of Congress."

**ANNUAL REPORT**

36 USC 2211.

**SEC. 12.** The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time

as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

#### RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 2212.

#### DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 2213.

#### TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2214.

#### TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire. 36 USC 2215.

Approved January 8, 1983.

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#### LEGISLATIVE HISTORY—H.R. 7423:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 19, considered and passed Senate.

Public Law 97-428  
97th Congress

An Act

Jan. 8, 1983

[H.R. 4001]

To authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes.

Indians.  
Navajo Tribe,  
lands held in  
trust.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subject to the approval of the Secretary of the Interior, the Navajo Tribe may exchange all of its interests in any land held in trust by the United States for the tribe in sections 4, 5, 8, and 9 of township 12 north, range 18 west, New Mexico principal meridian for the land located in section 14, township 13 north, range 18 west, New Mexico principal meridian which is owned by Bernard J. Vanderwagen or Linda Vanderwagen Ortega or both of them. The land so acquired by the Navajo Tribe shall be held in trust by the United States for the tribe and shall have the same status as the land exchanged.

Certain  
restricted  
land, Kans.  
*Ante*, p. 1645.

SEC. 2. The Act entitled "An Act to provide for the partitioning of certain restricted Indian land in the State of Kansas", approved October 15, 1982 (Public Law 97-344), is amended by striking out "township 11" in paragraph (1) and inserting in lieu thereof "township 12".

Houlton Band  
of Maliseet  
Indians.  
25 USC 1725.

SEC. 3. Section 6(i) of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended by adding at the end thereof the following:

"Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation."

Approved January 8, 1983.

LEGISLATIVE HISTORY—H.R. 4001 (S.159):

HOUSE REPORT No. 97-346 (Comm. on Interior and Insular Affairs).  
SENATE REPORT No. 97-374 accompanying S. 159 (Comm. on Indian Affairs).  
CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.  
Vol. 128 (1982): May 10, S. 159 considered and passed Senate.  
Dec. 16, considered and passed Senate, amended.  
Dec. 20, House agreed to Senate amendments.

Public Law 97-429  
97th Congress

An Act

To grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes.

Jan. 8, 1983

[H.R. 4496]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Texas Band of Kickapoo Act”.

Texas Band of  
Kickapoo Act.  
25 USC 1300b-11  
note.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma; that many years ago, the Band was forced to migrate from its ancestral lands to what is now the State of Texas and the nation of Mexico; that, although many members of the band meet the requirements for United States citizenship, some of them cannot prove that they are United States citizens; that, although the Band resides in the State of Texas, it owns no land there; that, because the Band owns no land in Texas, members of the Band are considered ineligible for services which the United States provides to other Indians who are members of federally recognized tribes because of their status as Indians except when the members of the Band are on or near the reservation of the Kickapoo Tribe of Oklahoma; that members of the Band live under conditions that pose serious threats to their health; and that, because their culture is derived from three different cultures, they have unique needs including, especially, educational needs.

25 USC  
1300b-11.

(b) Congress therefore declares that the Band should be recognized by the United States; that the right of the members of the Band to pass and repass the borders of the United States should be clarified; that services which the United States provides to Indians because of their status as Indians should be provided to members of the Band in Maverick County, Texas; and, that land in the State of Texas should be taken in trust by the United States for the benefit of the Band.

DEFINITIONS

SEC. 3. For purposes of this Act—

25 USC  
1300b-12.

(a) “Band” means the Texas Band of Kickapoo Indians, a subgroup of the Kickapoo Tribe of Oklahoma;

(b) “Tribe” means the Kickapoo Tribe of Oklahoma; and

(c) “Secretary” means the Secretary of the Interior.

ESTABLISHMENT OF BAND ROLL; CLARIFICATION OF UNITED STATES  
CITIZENSHIP

SEC. 4. (a) Within one year of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a roll of those members of the Tribe who possess Kickapoo blood and who are also members of the Band. When said roll is complete, the Secretary

25 USC  
1300b-13.

Notice,  
publication in  
Federal  
Register.

Report to  
Congress.

Citizenship.

8 USC 1101 note.

shall immediately publish notice in the Federal Register stating that the roll has been completed. The Secretary shall ensure that the roll, once completed, is maintained and that it is current.

(b) If the Secretary does not compile the roll within the period prescribed in subsection 4(a), he shall submit a report to Congress setting forth the reasons he did not do so.

(c) For a period of five years after the publication of the Federal Register notice required under subsection 4(a), any member of the Band whose name appears on the roll compiled by the Secretary, may, at his option, apply for United States citizenship. Such application shall be made to the Immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant.

(d) Notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

#### LAND ACQUISITION; APPLICABILITY OF THE INDIAN REORGANIZATION ACT

25 USC  
1300b-14.  
25 USC 461 note.

SEC. 5. (a) The Act of June 18, 1934 (48 Stat. 984), is hereby made applicable to the Band: *Provided, however,* That the Secretary is only authorized to exercise his authority under section 5 of that Act (25 U.S.C. 465) with respect to lands located in Maverick County, Texas.

(b) The Secretary is authorized and directed to accept no more than one hundred acres of land in Maverick County, Texas which shall be offered for the benefit of the Band with the approval of the Tribe. Nothing in this subsection shall be construed as limiting the authority of the Secretary under section 5 of the Act of June 18, 1934 (48 Stat. 985).

25 USC 465.

#### JURISDICTION

25 USC  
1300b-15.

SEC. 6. The State of Texas shall exercise jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code, as if it had assumed jurisdiction pursuant to sections 401 and 402 of the Act of April 11, 1968 (82 Stat. 78, 79). The provisions of section 403 of the Act of April 11, 1968 (82 Stat. 79), shall be applicable and available to the State of Texas.

25 USC 1321,  
1322.  
25 USC 1323.  
28 USC 1360  
note.

#### PROVISION OF FEDERAL INDIAN SERVICES

25 USC  
1300b-16.

SEC. 7. (a) Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, the Band and its members in Maverick County, Texas shall be eligible for such programs and services without regard to the existence of a reservation, the residence of members of the Band on or near a reservation, or the compilation of the roll pursuant to subsection 4(a) of this Act.

(b) In providing services pursuant to subsection (a), the Secretary and the head of each department and agency shall consult and cooperate with appropriate officials or agencies of the Mexican Government to the greatest extent possible to ensure that such services meet the special tricultural needs of the Band and its members. Such consultation and cooperation may include, whenever

Consultation  
and cooperation  
with Mexican  
Government.

practicable, joint funding agreements between such agency or department of the United States and the appropriate agencies and officials of the Mexican Government.

Approved January 8, 1983.

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**LEGISLATIVE HISTORY—H.R. 4496:**

HOUSE REPORT No. 97-858 (Comm. on Interior and Insular Affairs)

SENATE REPORT No. 97-684 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Dec. 20, considered and passed Senate, amended.

Dec. 21, House agreed to Senate amendments.

Public Law 97-430  
97th Congress

An Act

Jan. 8, 1983  
[H.R. 5027]

To designate the building known as the United States Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman United States Courthouse".

Walter E.  
Hoffman  
United States  
Courthouse.  
Designation

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the building located at the intersection of Granby Street and Brambleton Avenue in Norfolk, Virginia, known as the United States Post Office and Courthouse, shall hereafter be known and designated as the "Walter E. Hoffman United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Walter E. Hoffman United States Courthouse".

Effective date.

SEC. 2. This Act shall take effect on November 1, 1982.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 5027:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 17, considered and passed House.  
Dec. 23, considered and passed Senate.



Public Law 97-431  
97th Congress

An Act

To direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, New Mexico, and for other purposes.

Jan. 8, 1983

[H.R. 4568]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) subject to subsection (b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release, by quitclaim deed or other good and sufficient instrument, on behalf of the United States, with respect to the land described in subsection (c) which was conveyed by the United States to the city of Albuquerque, New Mexico, by a patent numbered 30-64-0081, all conditions in such patent—

Albuquerque,  
N. Mex.  
Previous land  
conveyance,  
release of certain  
restrictions.

(1) which require that such land be used for a public purpose pursuant to a plan approved by the Secretary, and

(2) which prohibit the transfer of title or control of such land by the patentee or its successor.

(b) The Secretary shall not deliver the release authorized by subsection (a) until the city of Albuquerque, New Mexico, simultaneously with such delivery—

(1) consummates an exchange of the land described in subsection (c) for the land described in subsections (d) and (e); and

(2) enters into a recordable agreement, in consideration of such release, that is satisfactory to the Secretary providing that—

Recordable  
agreement.

(A) the city of Albuquerque will carry out at its sole expense a plan of development for the lands described in subsections (d) and (e), such plan to be submitted for the Secretary's written approval within one year after the date of the exchange and to be implemented by the city substantially in accordance with a timetable to be set forth in the plan;

(B) the city of Albuquerque will not use or permit the use of the lands described in subsections (d) and (e) which are received by the city of Albuquerque in exchange for the land described in subsection (c) for any purpose except exclusively for a community park or for other public purposes that are described in the plan of development, as approved by the Secretary;

(C) the city of Albuquerque will not transfer or attempt to transfer title to, or control over, any land described in subsections (d) or (e) after the city of Albuquerque receives title to such lands; and

(D) the city of Albuquerque will forfeit to the United States the title to and possession of the land described in subsections (d) and (e) if such property should ever cease to be used for a community park or for other public purposes described in the approved development plan, or if the city of

Albuquerque attempts to transfer title to, or control over, such lands after the city receives title to such lands.

(c) The land referred to in subsection (a) which was conveyed by the United States to the city of Albuquerque, New Mexico, on December 31, 1963, by a patent numbered 30-64-0081 is the following two tracts or parcels:

(1) One tract or parcel containing 1.250 acres, more or less, which is all of the north half southwest quarter northeast quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(2) A second tract or parcel which is all of the south half northeast quarter northwest quarter southwest quarter southwest quarter and the south 26 feet of the north half northeast quarter northwest quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(d) The land referred to in subsection (b) which was conveyed by the United States to the devisees of Tom Hughes on October 17, 1955, by patent number 1155047 is the tract or parcel containing 1.624 acres, more or less, which is all of lot 58 (also known as north half northwest quarter northeast quarter southwest quarter southwest quarter) of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

(e) The land referred to in subsection (b) which was conveyed by the United States to Leyburn B. Kimble on March 2, 1955, by a patent numbered 1150213 is all of the south half northwest quarter northeast quarter southwest quarter southwest quarter of section 33, township 11 north, range 4 east, New Mexico principal meridian, county of Bernalillo, State of New Mexico.

SEC. 2. This Act does not affect—

(1) any right to coal, oil, gas or other mineral deposit, or

(2) except as otherwise expressly provided herein, any right, title or interest held by the United States in any land described in this Act.

SEC. 3. The authority of the Secretary to execute and deliver the release required by the first section of this Act shall not be limited by the Act entitled "An Act to authorize acquisition or use of public

Secretary's  
release  
authority.

lands by States, counties, or municipalities for recreational purposes.”, approved June 14, 1926 (43 U.S.C. 869 et seq.).

Approved January 8, 1983.

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**LEGISLATIVE HISTORY—H.R. 4568:**

HOUSE REPORT No. 97-635 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 2, considered and passed House.  
Dec. 23, considered and passed Senate

Public Law 97-432  
97th Congress

An Act

Jan. 8, 1983  
[H.R. 5456]

To amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements.

Plant  
Quarantine Act,  
amendment.  
7 USC 159.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of August 20, 1912 (7 U.S.C. 159, 160, 161), is amended by—

(1) striking out in section 5 the colon and all that follows down through the end of the sentence and inserting in lieu thereof a period;

7 USC 160.

(2) striking out in the second sentence of section 7 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to forbid the importation into the United States of the articles named in this section he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,*"; and

7 USC 161.

(3) striking out in the fourth sentence of section 8 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, territory, or district of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,*".

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 5456:

HOUSE REPORT No. 97-873 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 28, considered and passed House.  
Dec. 20, considered and passed Senate.

Public Law 97-433  
97th Congress

An Act

To establish the National Park System Visitor Facilities Fund, and for other purposes.

Jan. 8, 1983  
[H.R. 7316]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “National Park System Visitor Facilities Fund Act”.

SEC. 2. DEFINITIONS.—For purposes of this Act—

- (1) “Foundation” means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19e and following);
- (2) “Fund” means the National Park System Visitor Facilities Fund established under section 3 of this Act;
- (3) “Secretary” means the Secretary of the Interior; and
- (4) “visitor facility” means any structure, fixture, or improvement—

(A) which is located within a unit of the National Park System upon land owned by the United States;

(B) in which no concessioner has a possessory interest (within the meaning of section 6 of the National Park Service Concessions Policy Act (16 U.S.C. 20-20g)); and

(C) which is used to provide food, lodging, or other services to visitors.

Such term also includes concessioners’ employee dormitories which meet the requirements of subparagraphs (A) and (B).

SEC. 3. ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States the National Park System Visitor Facilities Fund. There shall be credited to the Fund an amount equal to all National Park System concession fees, including franchise fees and building user fees, paid to or due and owing to the United States after October 1, 1982 for the privilege of providing visitor accommodations and services in units of the National Park System (other than revenues obtained under the provisions of section 111 of the National Historic Preservation Act of 1966) (16 U.S.C. 470-470t).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.—(a) Beginning in fiscal year 1984, amounts credited to the Fund pursuant to this Act are authorized to be appropriated to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act.

(b) In addition to the amount authorized to be appropriated pursuant to subsection (a) of this section, there is authorized to be appropriated, not to exceed \$1,000,000 to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act. Such sums shall be available for expenditure by the Foundation only to the extent such sums are matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act.

National Park  
System Visitor  
Facilities Fund  
Act.  
16 USC 19aa  
note.  
16 USC 19aa.

16 USC 20e.

16 USC 19bb.

16 USC 470h-3.

16 USC 19cc.

(c) Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended.

National Park  
Foundation,  
functions.  
16 USC 19dd.

**SEC. 5. ADMINISTRATION OF FUND PROJECTS.**—(a) In a timely fashion, the Director of the National Park Service, with the concurrence of the Secretary, shall submit to the Executive Committee of the National Park Foundation detailed recommendations for the reconstruction, rehabilitation, replacement, improvement, relocation, or removal of visitor facilities. The Director shall specify those projects which he deems to have the highest priority for funding under this Act. The Executive Committee shall consider such recommendations and, with the concurrence of the Director of the National Park Service, recommend projects to the Board of the Foundation for its approval.

Grants.

(b) The Secretary shall make grants to the Foundation from amounts available in the Fund for the purpose of carrying out projects approved under this section.

(c)(1) Any project approved and carried out under this section shall be consistent with the purposes for which the park system unit involved was established and with any approved general management plan applicable to that unit. Any plans for, and location and design of, any specific project shall be reviewed by and concurred in by the Director of the National Park Service.

Historic  
property.

(2) In recommending any project under this Act with respect to any property listed on, or eligible for listing on the National Register of Historic Properties, the National Park Service shall take into account the recommendations of the Advisory Council on Historic Preservation and any project affecting any such property shall be carried out in a manner consistent with the requirements of the National Historic Preservation Act (16 U.S.C. 470-470t).

(d) The Foundation shall carry out projects under this Act, and expend grants made available under this Act, in accordance with applicable provisions of law and regulations. All grants for any projects to be carried out under this Act shall be in accordance with Circular A-110 published by the Office of Management and Budget applicable to Federal grants. The Foundation shall be responsible for managing the construction activities, including the selection of persons to perform architectural, engineering, construction, and related services.

(e) By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitor facility with respect to which such project is carried out shall be vested in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

Annual report to  
Congress.

(f) The Foundation shall include in its annual report to the Congress a description of projects undertaken under this Act and the Foundation's accomplishments under this Act.

16 USC 19ee.

**SEC. 6. AUTHORITY OF THE NATIONAL PARK FOUNDATION.**—For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act; and

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

**SEC. 7. RESPONSIBILITIES OF THE SECRETARY.**—Nothing in this Act shall affect the authorities or responsibilities of the Secretary under other provisions of law, including the authorities and responsibilities vested in him under the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and under the National Park System Concessions Policy Act (79 Stat. 969; 16 U.S.C. 20-20g). 16 USC 19ff

**SEC. 8. EXPIRATION OF AUTHORITY.**—The authorities contained in this Act shall expire on September 30, 1989. After that date, any moneys previously credited to the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury. 16 USC 19gg.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 7316 (S. 2715):

HOUSE REPORT No. 97-953 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 10, considered and passed House.  
Dec. 21, considered and passed Senate.

Public Law 97-434  
97th Congress

An Act

Jan. 8, 1983

[H.R. 5916]

To declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians.

Ramah Navajo  
Indians and  
Choctaw Indians  
of Mississippi.  
Lands held in  
trust.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) the first section of the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459), is amended by adding thereto the following new subsection (c):

“(c) The right, title, and interest of the United States of America in all of the lands, including the improvements now thereon (title to which is in the United States), acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and section 4 of the Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, and which lands are now administered by the Secretary of the Interior for the use or benefit of (1) Ramah Navajo Indians, are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe, and (2) Choctaw Indians of Mississippi, except lands subject to the Act of June 21, 1939 (53 Stat. 851), are hereby declared to be held in trust for the Mississippi Band of Choctaw Indians; excepting valid rights-of-way of record.”

25 USC 495a.

(b) Section 2(a) of said Act of October 17, 1975, is amended by deleting “section 1 of this Act” and inserting in lieu thereof “section 1(a) of this Act”.

25 USC 459 note.

(c) The amendments made by this Act shall be effective upon enactment of this Act.

Approved January 8, 1983.

LEGISLATIVE HISTORY—H.R. 5916:

HOUSE REPORT No. 97-816 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 97-435  
97th Congress

An Act

To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

Jan 8, 1983

[H.R. 6419]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subject to section 2, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release certain conditions contained in patent numbered 1216646 concerning the land described in subsection (b) conveyed by the United States to Eastern Washington University (formerly the Eastern Washington College of Education) (hereinafter in this Act referred to as the "University"). Such conditions provide that such land will revert to and revest in the United States if the University or any successor of the University—

Eastern  
Washington  
University.  
Release of  
certain land  
patent  
conditions.

(1) uses such land for purposes other than recreational and educational purposes, or

(2) attempts to transfer title to such land.

(b) The land referred to in subsection (a) comprises 21 acres and may be described as lot 6, section 34, Township 22 North, Range 41 East, Willamette Meridian, Washington.

(c) The authority of the Secretary to release such conditions shall expire five years after the enactment of this Act.

Authority  
expiration.

SEC. 2. The Secretary shall carry out subsection (a) of the first section of this Act only after the University concludes an agreement with the Secretary, and delivers to the Secretary a recordable document setting forth the terms of such agreement, that—

Recordable  
agreement.

(1) the University will dispose of the land described in subsection (b) of such section only for the purpose of acquiring, by exchange or purchase, real property which is more suitable for educational or recreational purposes than such land,

(2) if the University exchanges such land for other real property—

(A) the fair market value of such real property will not be less than the fair market value of such land, or

(B) the University will pay to the United States any amount by which the fair market value of such land exceeds the fair market value of such real property,

(3) if the University sells such land—

(A) the amount received by the University from such sale will be not less than the fair market value of such land, and

(B) the University will pay to the United States any portion of such amount which is not used to purchase other real property as provided in paragraph (1),

(4) title to any real property acquired by the University by exchange of such land or by purchase with the proceeds of the sale of such land will vest in the United States if the University or any successor of the University—

(A) uses such real property for purposes other than educational or recreational purposes,

(B) attempts to transfer title to such real property, or

(C) prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including lessees, sublessees, or permittees) to prohibit or restrict, directly or indirectly, the use of such real property or any facility thereon by any individual because of such individual's race, creed, color, sex, or national origin, and

(5) the University will include the terms of such agreement in any document transferring to the University property acquired by the University pursuant to such agreement.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 6419:

HOUSE REPORT No. 97-709 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 ( 1982):

Aug. 16, considered and passed House.  
Dec. 19, considered and passed Senate.

Public Law 97-436  
97th Congress

An Act

To provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes.

Jan. 8, 1983  
[H.R. 6243]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any provision of the Act approved October 19, 1973 (25 U.S.C. 1401 et seq.), any other law, and any regulation or plan promulgated pursuant to such Act or any other law, the funds appropriated by the Act approved January 3, 1974 (87 Stat. 1071), for the award to the Confederated Tribes of the Warm Springs Reservation in docket numbered 198 before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed in accordance with section 2 of this Act.

Confederated  
Tribes of the  
Warm Springs  
Reservation,  
distribution of  
judgment funds

SEC. 2. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall distribute the funds referred to in the first section of this Act to the individuals enrolled by the Secretary under section 3 of this Act on a per capita basis in the following manner:

Distribution on  
per capita basis.

(1) The per capita share of a living competent individual who has attained the age of eighteen shall be paid directly to such individual.

(2) The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR part 4, subpart D. In the event an individual dies intestate without heirs, the per capita share of the individual shall escheat to the Confederated Tribes of the Warm Springs Reservation.

(3) The per capita share of an individual under the age of eighteen or an individual determined by the Secretary to be incompetent to handle his own affairs shall be (A) distributed in accordance with such procedures as the Secretary determines to be necessary to protect the interests of such individual, or (B) in the discretion of the Secretary, held in trust for the benefit of such individual.

SEC. 3. The Secretary shall prepare, under such procedures as he may establish by regulation, a roll of all members of the Confederated Tribes of the Warm Springs Reservation who—

Membership  
roll.

(1) were born on or prior to, and were alive on, the date of enactment of this Act, but also including deceased persons who were alive and enrolled as of February 18, 1975, and,

(2) have not participated in—

(A) the distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563),

(B) a distribution pursuant to any other judgment under the Act approved August 13, 1946 (25 U.S.C. 70 et seq.), or

25 USC  
1011-1015.

(C) any distribution under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

The determination of the Secretary regarding the eligibility for enrollment under this section of any individual shall be final.

Federal or State  
income taxes.

SEC. 4. (a) None of the funds distributed by the Secretary under section 2 of this Act (or held in trust by the Secretary pursuant to paragraph (3)(B) of such section) shall be subject to Federal or State income taxes.

(b)(1) Except as provided in paragraph (2), the availability or distribution of funds by the Secretary under section 2 of this Act may not be considered as income or resources or otherwise used as the basis for denying or reducing—

(A) any financial assistance or other benefit to which any individual enrolled as a member under section 3 of this Act, or the household of any such individual, would otherwise be entitled or for which such individual or household is otherwise eligible under the Social Security Act, or

(B) any other Federal financial assistance or other Federal benefit to which such individual or household is otherwise entitled or for which such individual or household is otherwise eligible.

(2) The restriction contained in paragraph (1) of this subsection on the consideration or use of such funds for the purpose of reducing or denying any financial assistance or benefit described in subparagraph (B) of such paragraph shall not apply to that portion of any per capita share distributed under section 2 of this Act which exceeds \$2,000.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 6243:

HOUSE REPORT No. 97-936 (Comm. on Interior and Insular Affairs).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 6, considered and passed House.  
Dec. 20, considered and passed Senate.

Public Law 97-437  
97th Congress

An Act

To amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties.

Jan. 8, 1983  
[H.R. 6519]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3111(c) of title 5, United States Code, is amended—

IRS student  
interns,  
information  
accessibility.

(1) by striking out “(c) Any” and inserting in lieu thereof “(c)(1) Except as provided in paragraph (2), any”; and

(2) by adding at the end thereof the following new paragraph:

“(2) In addition to being considered a Federal employee for the purposes specified in paragraph (1), any student who provides voluntary service as part of a program established under subsection (b) of this section in the Internal Revenue Service, Department of the Treasury, shall be considered an employee of the Department of the Treasury for purposes of—

“(A) section 552a of this title (relating to disclosure of records);

“(B) subsections (a)(1), (h)(1), (k)(6), and (l)(4) of section 6103 of title 26 (relating to confidentiality and disclosure of returns and return information);

“(C) sections 7213(a)(1) and 7431 of title 26 (relating to unauthorized disclosures of returns and return information by Federal employees and other persons); and

*Ante*, p. 645.

“(D) section 7423 of title 26 (relating to suits against employees of the United States);

except that returns and return information (as defined in section 6103(b) of title 26) shall be made available to students under such program only to the extent that the Secretary of the Treasury or his designee determines that the duties assigned to such students so require.”.

Approved January 8, 1983.

LEGISLATIVE HISTORY—H.R. 6519:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 13, considered and passed House.

Dec. 23, considered and passed Senate.

Public Law 97-438  
97th Congress

An Act

Jan. 8, 1983  
[H.R. 7143]

To amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs.

Foreign  
Assistance  
Act of 1961,  
amendment.  
22 USC 2182a.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 222A(h) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

Approved January 8, 1983.

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**LEGISLATIVE HISTORY—H.R. 7143:**

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 28, considered and passed House.  
Dec. 20, considered and passed Senate.

Public Law 97-439  
97th Congress

An Act

To amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes.

Jan. 8, 1983  
[H R 7005]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal Seed Act  
Amendments of  
1982.

SHORT TITLE

SECTION 1. This Act may be cited as the “Federal Seed Act Amendments of 1982”. 7 USC 1551 note.

LAWN AND TURF SEED

SEC. 2. (a) The matter preceding clause (1) of section 201(a) of the Federal Seed Act (7 U.S.C. 1571(a)) is amended by striking out “, except as provided in paragraph (j) of this section for seed mixtures intended for lawn and turf purposes,”.

(b) Section 201(a)(1) of such Act (7 U.S.C. 1571(a)(1)) is amended by—

(1) inserting “(A), except with respect to seed mixtures intended for lawn and turf purposes,” after “*Provided, That*”;

(2) striking out “: *And provided further, That*”, and inserting in lieu thereof “, (B)”;

(3) inserting before the semicolon at the end thereof the following: “, and (C) seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance”.

(c) Section 201(j) of such Act (7 U.S.C. 1571(j)) is repealed.

SEED MIXTURE TEST DATES

SEC. 3. Section 201(a)(8) of the Federal Seed Act (7 U.S.C. 1571(a)(8)) is amended by inserting before the semicolon at the end thereof the following: “, except that, in the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture”.

PERIOD BETWEEN GERMINATION TEST AND TRANSPORTATION

SEC. 4. Section 201(c) of the Federal Seed Act (7 U.S.C. 1571(c)) is amended by—

(1) striking out “(a)” and inserting “(1)” in lieu thereof;

(2) striking out “(b)” and inserting “(2)” in lieu thereof;

(3) inserting “(A)” after “which” in clause (2) as redesignated by this section; and

(4) adding before the period at the end thereof the following: “; or (B) the Secretary finds will maintain a percentage of germination within the limits of tolerance established under this Act under ordinary conditions of handling”.

#### PROHIBITIONS RELATING TO IMPORTATION

**SEC. 5.** (a)(1) Section 101(a)(8) of the Federal Seed Act (7 U.S.C. 1561(a)(8)) is amended by—

(A) striking out subparagraph (B);

(B) striking out “(A)”;

(C) striking out “(i)” and inserting in lieu thereof “(A)”;

(D) striking out “(ii)” and inserting in lieu thereof “(B)”.

(2) Section 101(a) of such Act (7 U.S.C. 1561(a)) is amended by striking out paragraph (17) and redesignating paragraphs (18) through (25) as paragraphs (17) through (24), respectively.

(b)(1) Section 301(a)(1) of such Act (7 U.S.C. 1581(a)(1)) is amended by striking out “any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes” and inserting in lieu thereof “any agricultural or vegetable seeds if any such seed contains noxious-weed seeds”.

(2) Section 302(a) of such Act (7 U.S.C. 1582(a)) is amended by striking out the second sentence.

(3) Section 302(d) of such Act (7 U.S.C. 1582(d)) is amended by—

(A) striking out “that is adulterated or unfit for seeding purposes” in the matter preceding clause (1); and

(B) striking out clause (3).

(4) Sections 303 and 304 of such Act (7 U.S.C. 1583 and 1584) are repealed and sections 305 and 306 of such Act (7 U.S.C. 1585 and 1586) are redesignated as sections 303 and 304, respectively.

Approved January 8, 1983.

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#### LEGISLATIVE HISTORY—H.R. 7005:

HOUSE REPORT No. 97-877 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 23, considered and passed House.

Dec. 20, considered and passed Senate.



Public Law 97-440  
97th Congress

An Act

To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH.

Jan. 8, 1983

[H.R. 7159]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

Federal Water  
Pollution  
Control Act,  
amendment  
33 USC 1311.  
33 USC 1342.  
33 USC 1343.

“(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

“(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

“(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

“(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

“(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

“(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

“(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

“(G) the applicant accepts as a condition to the permit a contractual obligation to use funds in the amount required (but not less than \$250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

“(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

“(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the

33 USC 1251.

applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

“(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

“(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additional period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

“(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.”.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—H.R. 7159:

HOUSE REPORT No. 97-868 (Comm. on Public Works and Transportation).

SENATE REPORT No. 97-686 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Dec. 19, considered and passed Senate, amended.

Dec. 20, House concurred in Senate amendment.

Public Law 97-441  
97th Congress

Joint Resolution

Designating "National High School Activities Week".

Jan. 8, 1983

[S.J. Res. 101]

Whereas more than half of the students in this Nation's senior high schools are involved in at least one extracurricular activity;  
Whereas this "other half of education" plans a significant role in the total educational development of high school students;  
Whereas participation in activities such as athletics, speech, music, debate, drama, and others generally leads to positive development for all and often leads to superior achievement;  
Whereas participation and achievement in those areas often contribute to increased interest and performance in strictly academic areas;  
Whereas both academic and extracurricular achievement contribute greatly to the social development and interaction of all high school students;  
Whereas that development directly benefits local communities by channeling young people's interests and talents into positive efforts, and by instilling in them an early sense of civic duty and community pride;  
Whereas former President Gerald R. Ford has agreed to act as honorary national chairman of the effort to recognize the important role of extracurricular activities in this Nation's high schools:  
Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President should designate the week of October 17 through October 23, 1982, as "National High School Activities Week", in recognition of the valuable contribution that such programs make in developing the interests and talents of young people at the community level.

National High  
School Activities  
Week.

Approved January 8, 1983.

LEGISLATIVE HISTORY—S.J. Res. 101:

CONGRESSIONAL RECORD:

Vol. 127 (1981): Sept. 16, considered and passed Senate.

Sept. 21, considered and passed House, amended.

Vol. 128 (1982): Dec. 16, Senate concurred in House amendment.

Public Law 97-442  
97th Congress

## Joint Resolution

Jan. 8, 1983

[S.J. Res. 240]

To authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week".

Whereas the Jaycee idea began with a handful of young men in Saint Louis, Missouri, sixty-three years ago;

Whereas the Jaycee idea embraces today approximately three hundred thousand members in seven thousand five hundred American communities that have chapters in the United States Jaycees;

Whereas the Jaycee idea enriches the lives of communities around the world through affiliation in Jaycees International;

Whereas the Jaycees organization retains a youthful outlook, even in its maturity, and continues to build on the individual member, even with its global scope—first, helping him be the best man he can be, then helping him help his fellow man in need, one to one;

Whereas a Jaycee cares about people, and he shows it;

Whereas a Jaycee cares about progress, and he does something about it;

Whereas a Jaycee lives by the creed that "service to humanity is the best work of life", and throws himself into that work both in his vocation and avocation;

Whereas a Jaycee is the kind of young man this country will need in great numbers to help meet the challenges of our times and the coming century; and

Whereas it is fitting that we should give special recognition and encouragement to the Jaycee and his organization: Now, therefore, be it

National Jaycee  
Week.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week", and calling upon all Government agencies and people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved January 8, 1983.

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LEGISLATIVE HISTORY—S.J. Res. 240:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 8, considered and passed Senate.

Dec. 21, considered and passed House.

Public Law 97-443  
97th Congress

Joint Resolution

To designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week".

Jan 8, 1983  
[S.J. Res. 264]

Whereas television can create an intellectual and emotional environment which can play a decisive role in shaping individual development and perception;

Whereas parents and other adults should be able to look to television to provide children with true pictures of the world and positive models for behavior;

Whereas many dedicated groups and individuals strive to improve the quality of television programing viewed by children and their families; and

Whereas this Nation has a continuing responsibility to provide appropriate, stimulating programing for children and adolescents: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the week of March 13, 1983, through March 19, 1983, is designated as "National Children and Television Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate activities supporting television programs which are attentive to the needs and interests of children.

National  
Children and  
Television Week

Approved January 8, 1983.

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LEGISLATIVE HISTORY—S J. Res. 264

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 3, considered and passed Senate  
Dec. 21, considered and passed House

Public Law 97-444  
97th Congress

An Act

Jan. 11, 1983

[H.R. 5447]

Futures Trading  
Act of 1982.  
7 USC 1 note.

To extend the Commodity Exchange Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1982".*

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

7 USC 2, 4.

7 USC 2.

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated “, except to the extent otherwise provided in subparagraph (B) of this paragraph,” after “exclusive jurisdiction”;

7 USC 2a.

(3) adding a new subparagraph (B) to read as follows:

“(B) Notwithstanding any other provision of law—

“(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any interest therein or based on the value thereof.

15 USC 77b.

15 USC 78c.

“(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guaranty’, or ‘decline guaranty’) and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): *Provided, however,* That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

“(I) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

15 USC 77c.

15 USC 78c.

“(II) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

“(III) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

“(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) of this subparagraph.

“(iv)(I) The Commission shall consult with the Securities and Exchange Commission with respect to any application which is submitted by a board of trade before December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities. If, no later than fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) of this subparagraph is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities Exchange Commission otherwise agree. If such an oral hearing is held, the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance

7 USC 9.

with the standards of section 6(b) of this Act. If, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

“(II) Effective for any application submitted by a board of trade on or after December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities, the Commission shall transmit a copy of such application to the Securities and Exchange Commission for review. The Commission shall not approve any such application if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) of this subparagraph. Such determination shall be made by order no later than forty-five days after the close of the public comment period under clause (iii) of this subparagraph. In the event of such determination, the board of trade shall be afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing shall commence no later than thirty days following the receipt of the request, and a final determination shall be made no later than thirty days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner and under such terms and conditions as are provided in section 6(a) of this Act.

7 USC 8.

“(v) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), or except as provided in clause (ii) of this subparagraph, any group or index of such securities or any interest therein or based on the value thereof.”.

15 USC 77c.

15 USC 78c.

#### OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding at the end thereof the following new subsection:

“(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.”.

#### COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—



(1) inserting “(1)” immediately following the section designation; and

(2) adding at the end thereof the following new subsection:

“(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.”.

15 USC 77a.

15 USC 78a.

#### SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting “registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934,” before “notwithstanding”; and

15 USC 78c.

(2) striking out “and consumers” and inserting in lieu thereof a comma and immediately thereafter “consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this Act: *Provided*, That any information furnished by the Commission under this paragraph shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding”.

### TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

#### DEFINITIONS

SEC. 201. Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) inserting in paragraph (1)(A), as redesignated by section 101 of this Act, immediately after the sentence defining the term “futures commission merchant” a new sentence to read as follows: “The term ‘introducing broker’ shall mean any person, except an individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.”; and

*Ante*, p. 2294.

(2) amending the sentence defining the term “commodity trading advisor” in paragraph (1)(A), as so redesignated, to read as follows: “The term ‘commodity trading advisor’ shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section

7 USC 6c.

7 USC 23.

29 USC 1001  
note.

19, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further*, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.”.

## PERSONNEL RESTRICTIONS

SEC. 202. Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 4a(f)) is amended by—

- (1) striking out “(A)” after the paragraph designation; and
- (2) striking out subparagraph (B).

## LEGISLATIVE FINDINGS

SEC. 203. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended to read as follows:

“SEC. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as ‘futures’ are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein. Furthermore, transactions which are of the character of, or are commonly known to the trade as, ‘options’ are or may be utilized by commercial and other

entities for risk shifting and other purposes. Options transactions are in interstate commerce or affect such commerce and the national economy, rendering regulation of such transactions imperative for the protection of such commerce and the national public interest.”

#### UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 204. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

“SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) unless—

“(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a ‘contract market’ for such commodity;

“(2) such contract is executed or consummated by or through a member of such contract market; and

“(3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the Department of Justice.

“(b) The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk, the filing of reports, the keeping of books and records, the safeguarding of customers’ funds, and registration with the Commission by any person located in the United States, its territories or possessions, who engages in the offer or sale of any contract of sale of a commodity for future delivery that is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade, exchange, or market involved. No rule or regulation may be adopted by the Commission under this subsection that (1) requires Commission approval of any contract, rule, regulation, or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, or (2) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market.”.

#### SPECULATIVE LIMITS

SEC. 205. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) inserting “rule, regulation, or” before “order” wherever it occurs in subsections (1) and (2);

(2) inserting in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(3) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act. Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this Act and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following the date of enactment of the Futures Trading Act of 1982.";

(5) inserting in the first sentence of subsection (4) "an introducing broker," after "futures commission merchant", and striking out "as floor broker" and inserting in lieu thereof "a floor broker"; and

(6) adding at the end thereof the following new subsection:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission: *Provided*, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits."

## AGRICULTURAL OPTIONS

SEC. 206. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) amending subsection (a) by—

(A) inserting “or” at the end of clause (A);

(B) striking out clause (B); and

(C) redesignating clause (C) as clause (B);

(2) amending subsection (b) to read as follows:

“(b) No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guaranty’, or ‘decline guaranty’, contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.”;

(3) in subsection (c), inserting immediately after the first sentence the following: “With respect to any commodity regulated under this Act and specifically set forth in section (2)(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.”; and

(4) amending subsection (d) by—

(A) in clause (1), inserting “, other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974,” immediately after “physical commodity”;

(B) in clause (2), inserting “, other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974,” immediately after “subsection (b) of this section”; and

(C) inserting “, other than options on a commodity specifically set forth in section (2)(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974,” immediately after “The Commission may permit persons not domiciled in the United States to grant options under this subsection”.

*Ante*, p. 2294.

7 USC 1 note.

## INTRODUCING BROKER; REGISTRATION REQUIREMENT

SEC. 207. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

- (1) inserting in the introductory clause “or introducing broker” after “futures commission merchant”;
- (2) inserting in paragraph (1) “or introducing broker” after “futures commission merchant”; and
- (3) inserting in paragraph (2) “if a futures commission merchant,” after “such person shall.”

## REGISTRATION PROCEDURE; TECHNICAL AMENDMENTS

SEC. 208. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

- (1) amending subsection (1) to read as follows:

“(1) Any person desiring to register as a futures commission merchant, introducing broker, or floor broker hereunder shall be registered upon application to the Commission. The application shall be made in such form and manner as prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including in the case of an application of a futures commission merchant or an introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person’s business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act.”;

- and
- (2) inserting in subsection (2) “or as introducing broker” after “futures commission merchant”.

## INTRODUCING BROKERS; REPORTS, BOOKS, AND RECORDS

SEC. 209. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by—

- (1) inserting in subsection (1) “, introducing broker,” after “futures commission merchant”; and
- (2) inserting in subsection (3) “, introducing brokers,” after “Floor brokers”.

## MISREPRESENTATION OF STATUS; TECHNICAL AMENDMENTS

SEC. 210. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended to read as follows:

“SEC. 4h. It shall be unlawful for any person falsely to represent such person to be a member of a contract market or the representa-

Expiration date.

tive or agent of such member, or to be a registrant under this Act or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through a member of, any contract market.”.

RECORDKEEPING CONFORMED TO CURRENT SYSTEM; LARGE TRADER  
REPORTS

SEC. 211. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

“SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

“(1) if such person shall directly or indirectly make such contracts with respect to any commodity or any future of such commodity during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

“(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity equal to or in excess of such amount as shall be fixed from time to time by the Commission,

unless such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in clauses (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of such commodity. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.”.

REGISTRATION; ASSOCIATED PERSON STATUS

SEC. 212. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

“SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant as a partner, officer, or employee, or to be associated with an introducing broker as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation or acceptance of customers’ orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures

commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, or introducing broker (and such registration is not suspended or revoked) need not also register under this subsection.

“(2) It shall be unlawful for any person to be associated with a commodity pool operator as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity pool operator and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity pool operator to permit such a person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons from having to register under this subsection by rule, regulation, or order.

“(3) It shall be unlawful for any person to be associated with a commodity trading advisor as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity trading advisor and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity trading advisor to permit such a person to become or remain associated with the commodity trading advisor in any such capacity if the commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons



from having to register under this subsection by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed."

*Post*, p. 2310.

#### CONFORMING AMENDMENT

SEC. 213. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6).

#### EXTENSION OF ANTIFRAUD PROVISION

SEC. 214. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended to read as follows:

"SEC. 4o. (1) It shall be unlawful for a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

7 USC 6o.

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator registered under this Act to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof. This section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented."

#### EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATIONS

SEC. 215. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons required to be registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers,"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such individuals deal".

#### CONTRACT MARKET RULES

SEC. 216. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending paragraph (8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, that (i) have been approved by the Commission pursuant to paragraph (12) of this section, (ii) have become effective under such paragraph, or (iii) must be enforced pursuant to any Commission rule, regulation, or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, that has been disapproved by the Commission,";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review such rules for approval. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish a notice of such rules in the Federal Register. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the

Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be made effective by the contract market until such time as the Commission disapproves such rule in accordance with this paragraph. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make a rule effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may immediately make effective a temporary rule dealing with such emergency if the contract market notifies the Commission of such action with a complete explanation of the emergency involved."

#### ARBITRATION

SEC. 217. (a) Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the contract market; and".

(b) Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21(b)(10)) is amended to read as follows:

"(10) the rules of the association provide a fair, equitable, and expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the association."

## CONTRACT MARKET DESIGNATION PROCEDURES

SEC. 218. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial."

## APPEALS; CONFORMING AMENDMENT

SEC. 219. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

*Ante*, p. 2303.

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

## RESTRAINING ORDERS

SEC. 220. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property)".

## STATE ANTIFRAUD JURISDICTION

SEC. 221. Section 6d of the Commodity Exchange Act (7 U.S.C. 13a-2) is amended by adding at the end thereof the following new subsection:

"(8)(A) Nothing in this Act shall prohibit an authorized State official from proceeding in a State court against any person registered under this Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provision of this Act or any antifraud rule, regulation, or order issued pursuant to the Act.

"(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such pro-

ceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as *amicus curiae* in any such proceeding.”.

CONFIDENTIALITY PROVISIONS; DISCLOSURE

SEC. 222. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) inserting immediately before the period at the end of subsection (a) the following: “: *Provided further*, That the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person”;

(2) amending subsection (b) by—

(A) striking out “or” before “in an administrative or judicial proceeding”; and

(B) inserting immediately before the period at the end thereof “, in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code”;

(3) amending subsection (e) by—

(A) striking out “of the Executive Branch”; and

(B) adding at the end thereof the following: “Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.”;

(4) redesignating subsections (f) and (g) as subsections (h) and (i), respectively; and

(5) adding new subsections (f) and (g) to read as follows:

“(f) The Commission shall disclose information in its possession pursuant to a subpoena or summons only if—

“(1) a copy of the subpoena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpoena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpoena or summons to such person, and

“(2) at least fourteen days have expired from the date of such mailing of the subpoena or summons, or such other notice.

This subsection shall not apply to congressional subpoenas or congressional requests for information.

“(g) The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.”.

#### REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 223. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

“(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof: *Provided*, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt, except that the term of any such temporary license shall not exceed six months from the date of its issuance.”.

#### STATUTORY DISQUALIFICATION FROM REGISTRATION; DELEGATION OF REGISTRATION FUNCTIONS

SEC. 224. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

“(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and with

such a hearing as may be appropriate to revoke the registration of any person—

“(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

“(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

“(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19 of this Act, or concerning securities;

7 USC 6c, 23.

“(D) if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

18 USC 471 *et seq.*, 1001 *et seq.*, 1951 *et seq.*, 1961 *et seq.*

“(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934,

15 USC 77a, 78a.

15 USC 79,  
77aaa, 80b-20,  
80a-51, 78aaa,  
78a note.

the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

“(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person’s membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

“(G) if, as to any of the matters set forth in subparagraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in such person’s application; or

“(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph:

*Provided*, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in section 6(b) of this Act; and

*Provided, further*, That for the purposes of paragraphs (2) and (3) of this section, ‘principal’ shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission;”;

(2) striking out paragraph (4) and redesignating paragraph (3) as paragraph (4);

(3) inserting a new paragraph (3) to read as follows:

“(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

“(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

7 USC 9.

“Principal.”



“(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

15 USC 77a, 78a, 79, 77aaa, 80b-20, 80a-51, 78aaa, 78a note.

“(C) such person failed reasonably to supervise another person, who is subject to such person’s supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this subparagraph if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

“(D) such person was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in paragraph (2)(D) of this section, more than ten years preceding the filing of the application;

“(E) such person was convicted within ten years preceding the filing of the application for registration or at any time thereafter of any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, for-

18 USC 471 *et seq.*, 1001 *et seq.*, 1951 *et seq.*, 1961 *et seq.*

gery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's application, in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded *nolo contendere* to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that such person meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization, or barring or suspending such person from being associated with any member or members of such contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with such person any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

"(M) there is other good cause; or

"(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

*Provided*, That pending final determination under this paragraph, registration shall not be granted: *Provided further*, That such person may appeal from a decision to refuse registration or

to condition registration made pursuant to this paragraph in the manner provided in section 6(b) of this Act;”;

*Ante*, p. 2308.

(4) amending paragraph (4), as redesignated, to read as follows:

“(4) in accordance with the procedure provided for in section 6(b) of this Act, to suspend, revoke, or place restrictions upon the registration of any person registered under this Act if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under section 6(b) of this Act and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or place restrictions upon registration made pursuant to this paragraph in the manner provided in section 6(b) of this Act;”;

(5) striking out “and” at the end of each of paragraphs (6), (7), and (8); and

(6) adding a new paragraph (10) to read as follows:

“(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.”.

7 USC 21.

#### EMERGENCY POWERS; JUDICIAL REVIEW

SEC. 225. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

“(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission’s judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission’s action. The term ‘emergency’ as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based upon an examination of all the information before the Commission at the time the determination was made. The court reviewing the Commission’s action shall not enter a stay or order of mandamus unless it has

“Emergency.”

determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions; and".

#### EXPORT SALES REPORTING

7 USC 12d. SEC. 226. The Commodity Exchange Act is amended by adding immediately after section 8c (7 U.S.C. 12c) the following new section:

"SEC. 8d. The Commission may, in accordance with the procedures provided for in this Act, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 812 of the Agricultural Act of 1970 (7 U.S.C. section 612c-3), or of any regulation issued thereunder."

#### CERTAIN PROHIBITED TRANSACTIONS

SEC. 227. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) It shall be a felony punishable by a fine of not more than \$500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of \$100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than \$100,000, together with the costs of prosecution. The word 'value' as used in this subsection means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. A person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied registration or reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest. The Commission may upon petition later review such disqualification and for good cause shown reduce the period thereof."

"Value."

Review.

(2) amending subsection (b) by adding at the end thereof the following: "A person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years or such longer

period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.”;

Review.

(3) amending subsection (c) by adding at the end thereof the following: “A person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.”;

7 USC 6a.

Review

(4) amending subsection (d) to read as follows:

“(d) It shall be a felony punishable by a fine of not more than \$100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guarantee’, or ‘decline guaranty’, or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person’s own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person’s own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the

Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public"; and

(5) inserting after the words " 'decline guaranty' " each place they appear in subsection (e) the following: " , or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

#### REAUTHORIZATION

SEC. 228. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

Appropriation  
authorization.

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1982, and ending September 30, 1986."

#### OFF-EXCHANGE JURISDICTION; ROLE OF STATES

SEC. 229. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end thereof the following new subsection:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) the application of any Federal or State statute, including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange, or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 4c or 19 of this Act; or

7 USC 6c, 23.

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation.

The Commission may refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action, or proceedings as that department or agency shall deem appropriate."

## AIDING AND ABETTING; CONTROLLING PERSON

SEC. 230. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

- (1) striking out “in administrative proceedings under this Act” in subsection (a);
- (2) redesignating subsection (b) as subsection (c); and
- (3) inserting a new subsection (b) to read as follows:

“(b) Any person who, directly or indirectly, controls any person who has violated any provision of this Act or any of the rules, regulations, or orders issued pursuant to this Act may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.”.

## REPARATIONS PROCEDURE

SEC. 231. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

- (1) amending subsection (a) to read as follows:

“(a) Any person complaining of any violation of any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.”;

- (2) amending subsection (b) to read as follows:

“(b) The Commission may promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.”;

- (3) striking out subsections (c) and (e);

- (4) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

- (5) striking out “subsection (g)” in subsection (d), as so redesignated, and inserting in lieu thereof “subsection (e)”;

- (6) amending subsection (f), as so redesignated, to read as follows:

“(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that

payment of such amount with interest thereon to date of payment has been made: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.”.

#### TECHNICAL AMENDMENT

SEC. 232. Section 16(d) of the Commodity Exchange Act (7 U.S.C. 20(d)) is amended by inserting “or market positions” after “transactions”.

#### REGISTERED FUTURES ASSOCIATIONS

SEC. 233. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: “, which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing”;

(2) striking out “section 8a(4)” in subsection (d) and inserting in lieu thereof “section 8a(1)”;

(3) striking out “subsection (k)” in subsection (h) and inserting in lieu thereof “subsection (i)”;

(4) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: “A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations issued pursuant to this Act, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this Act or the regulations issued pursuant to this Act. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Com-



mission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.”;

(5) adding at the end thereof the following new subsections:

“(o)(1) The Commission may require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

7 USC 21.

“(2) In performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provisions of this Act, a futures association may issue orders (A) to refuse to register any person, (B) to register conditionally any person, (C) to suspend the registration of any person, (D) to place restrictions on the registration of any person, or (E) to revoke the registration of any person. If such an order is the final decision of the futures association, any person against whom the order has been issued may petition the Commission to review the decision. The Commission may on its own initiative or upon petition decline review or grant review and affirm, set aside, or modify such an order of the futures association; and the findings of the futures association as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

7 USC 12a.

“(3) Nothing in this section shall affect the Commission’s authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provision of this Act.

“(4) If a person against whom a futures association has issued a registration order under this subsection petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States court of appeals, in accordance with section 6(b) of this Act.

7 USC 9.

“(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

“(1) establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the provisions of this Act, supervisors of such persons, and all persons for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

“(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

“(3) establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this Act.

“(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than September 30, 1985, in the case of any futures association registered on the date of enactment of the Futures Trading Act of 1982, and not later than two and one-half years after the date of registration in the case of any other futures association registered under this section.”.

#### LEVERAGE TRANSACTIONS

SEC. 234. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

“(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule, regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms and conditions for such transactions involving different commodities. Notwithstanding any other provision of this section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the public interest.”; and

(2) striking out subsection (d).

#### PRIVATE RIGHTS OF ACTION

SEC. 235. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

7 USC 25.

“SEC. 22. (a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (D) of this paragraph and caused by such violation to any other person—

“(A) who received trading advice from such person for a fee;

“(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity); or who deposited with or paid to such person

money, securities, or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

“(C) who purchased from or sold to such person or placed through such person an order for the purchase or sale of—

“(i) an option subject to section 4c of this Act (other than an option purchased or sold on a contract market or other board of trade); 7 USC 6c.

“(ii) a contract subject to section 19 of this Act; or 7 USC 23.

“(iii) an interest or participation in a commodity pool; or

“(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

“(2) Except as provided in subsection (b), the rights of action authorized by this subsection and by sections 5a(11), 14, and 17b(10) of this Act shall be the exclusive remedies under this Act available to any person who sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration.

*Ante*, pp. 2307, 2319.

“(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by section 5a(8) and section 5a(9) of this Act, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market, or licensed board of trade that in enforcing any such bylaw, rule, regulation, or resolution violates this Act or any Commission rule, regulation, or order, shall be liable for actual damages sustained by a person who engaged in any transaction on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations, or resolutions.

*Ante*, p. 2306.

“(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in any transaction specified in subsection (a) of this section to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaw or rule.

7 USC 21.

“(3) Any individual who, in the capacity as an officer, director, governor, committee member, or employee of a contract market, clearing organization, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces, or procures any failure by any such entity to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person who engaged in any transaction specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member, or employee of a registered futures association, any transaction specified in subsection (a) of this section, in either case to the extent of such person's

actual losses that resulted from such transaction and were caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person who sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member, or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action in enforcing any bylaw, rule, regulation, or resolution referred to in this subsection that is alleged to have violated this Act, or any Commission rule, regulation, or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

"(d) The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: *Provided*, That the enactment of the Futures Trading Act of 1982 shall not affect any right of any parties which may exist with respect to causes of action accruing prior to such date."

#### SPECIAL STUDY OF FUTURES AND RELATED MARKETS

SEC. 236. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

7 USC 26.

"SEC. 23. (a)(1) The Board of Governors of the Federal Reserve System, the Commission, and the Securities and Exchange Commission, with assistance from the Secretary of the Treasury, shall conduct a study of the effects on the economy of trading in contracts of sale of commodities for future delivery and in options (including options on commodities, options on contracts of sale of commodities for future delivery, options on foreign currencies, and options on securities, including exempted securities or on any group or index of securities). The agencies participating in the study may select representative futures contracts and options contracts and representative periods of time for detailed study.

"(2) The Board of Governors of the Federal Reserve System shall organize the study and shall do so in such manner that the total cost to all participating agencies of conducting the study is not more than \$3,000,000. To the extent possible, such agencies shall use data which are readily available to them.

"(3) among the areas to be studied are—

"(A) the effects, if any, that trading in such instruments has on the formation of real capital in the economy (particularly that of a long-term nature) and the structure of liquidity in credit markets;

"(B) the economic purposes, if any, served by the trading of such instruments;

"(C) the sufficiency of the public policy tools available to regulate such trading activity to avoid harmful economic effects

in the markets for such instruments, the underlying cash markets, and related financial markets;

“(D) the adequacy of investor protections afforded to participants in the markets for such instruments; and

“(E) the extent to which such instruments may be utilized to manipulate, or profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities.

“(4) The Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction, and the Securities and Exchange Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction.

“(5) The Board of Governors of the Federal Reserve System shall review, and may supplement with its own analyses, the studies conducted under this subsection by the Commission and the Securities and Exchange Commission. The Board of Governors, after consultation with the Commission and the Securities and Exchange Commission, shall, not later than September 30, 1984, submit to Congress a report comprised of such studies, together with any supplementation and recommendations for legislative or regulatory action proposed by the participants.

Report to  
Congress.

“(b)(1) The Commission shall conduct at a cost of not more than \$200,000 a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions (to which such persons are not parties) in any commodity, and (B) the adequacy of the Commission's authority to prevent market and customer abuses resulting from the possession of such nonpublic information.

“(2) To the extent possible, the Commission shall use data which are readily available to it in conducting the study. The Commission shall, not later than September 30, 1984, transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study and including any recommendations for legislative action.”

Report to  
congressional  
committees.

#### NATIONAL FUTURES ASSOCIATION STUDY AND SERVICE FEES

SEC. 237. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

7 USC 16a.

(1) inserting “(a)” immediately following the section designation; and

(2) adding at the end thereof the following new subsections:

Report to  
Congress.

“(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association for the period beginning January 1, 1983 and ending September 30, 1985. The report shall be submitted not later than January 1, 1986. The report shall include (but not to be limited to) the following—

“(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17 (p) and (q) of the Commodity Exchange Act and the effectiveness of the operation of such program;

7 USC 21.

“(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

“(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission’s jurisdiction;

“(4) problem areas, if any, encountered by the Association;

“(5) the nature of the working relationship between the Association and the Commission;

“(6) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

“(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

“(c) Nothing in this section shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided*, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.”.

7 USC 1.

#### AGRICULTURAL EXPORTS

SEC. 238. Section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) is amended by adding at the end thereof the following new sentence: “Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity or the products thereof under an export sales contract (1) entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity or products thereof, (2) the terms of which require delivery of the commodity or products thereof within two hundred and seventy days after the date the suspension of trade is imposed, except that the President may prohibit or curtail the export of any commodity or the products thereof during a period for which the President has declared a national emergency or for which Congress has declared war.”.

**EFFECTIVE DATE**

**Sec. 239.** This Act shall be effective upon the date of enactment of this Act, except that sections 207, 212, and 231 of this Act shall be effective one hundred and twenty days after the date of enactment of this Act, or such earlier date as the Commodity Futures Trading Commission shall prescribe by regulation. <sup>7 USC 2 note.</sup>

Approved January 11, 1983.

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**LEGISLATIVE HISTORY—H.R. 5447:**

**HOUSE REPORTS:** No. 97-565, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Energy and Commerce), and No. 97-964 (Comm. of Conference).  
**CONGRESSIONAL RECORD**, Vol. 128 (1982):

Sept. 23, considered and passed House.  
Oct. 1, considered and passed Senate, amended.  
Dec. 15, Senate agreed to conference report.  
Dec. 16, House agreed to conference report.

Public Law 97-445  
97th Congress

Joint Resolution

Jan. 12, 1983

[H.J. Res. 459]

Authorizing the President to proclaim May 13, 1983, as "American Indian Day".

American Indian  
Day.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is authorized and requested to issue a proclamation designating May 13, 1983, as "American Indian Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved January 12, 1983.

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LEGISLATIVE HISTORY—H.J. Res. 459:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 97-446  
97th Congress

An Act

To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

Jan. 12, 1983

[H.R. 4566]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tariff Schedules,  
temporary duty  
suspensions.

TITLE I—TARIFF PROVISIONS

SUBTITLE A—IN GENERAL

SEC. 101. AMENDMENT OF TARIFF SCHEDULES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, an item or other provision, the reference shall be considered to be made to an item or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 102. CANNED TUNA.

Item 112.30 is amended—

(1) by inserting “and not the product of any insular possession of the United States,” immediately after “15 pounds each,”; and

(2) by striking out “United States Fish and Wildlife Service” and inserting in lieu thereof “National Marine Fisheries Service”.

SEC. 103. FURS FROM CHINA.

Headnote 4 to subpart B of part 5 of schedule 1 is amended by striking out “or of the People’s Republic of China”.

19 USC 1202  
note.

SEC. 104. LIMITATION ON IMPORTS OF SEED POTATOES.

The superior heading to items 137.20 and 137.21 is amended by inserting “, and imported for use as seed” after “tags”.

SEC. 105. CLASSIFICATION OF CERTAIN FABRICS.

Subpart A of part 4 of schedule 3 is amended—

(1) by amending the superior heading to items 346.05 through 346.65 to read as follows:

“	Fabrics of pile construction, in which pile threads were inserted or knotted during the weaving or knitting, whether or not the pile threads cover the entire surface and whether the pile threads are wholly or partly cut or are not cut:					”;
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(2) by amending the superior heading for items 346.05 and 346.10 to read as follows:

“	Fabric of corduroy construction, whether or not the filling floats are cut:					”;
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and

(3) by amending the superior heading for items 346.15 through 346.24 to read as follows:

"		Fabric of velveteen construction, whether or not the filling floats are cut:				"
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#### SEC. 106. REDUCTION OF DUTY ON CERTAIN FOURDRINIER WIRE.

19 USC 1202  
note.

(a) **IN GENERAL.**—Subpart B of part 3 of schedule 6 is amended by striking out item 642.30 and inserting in lieu thereof the following:

"		Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines (whether or not parts of, or fitted or attached to, such machines):					
	642.31	Of plastics .....	19.4% ad val.	10% ad val.	75% ad val.		
		Other:					
	642.33	With 240 or more wires to the linear inch .....	Free		75% ad val.		
	642.34	Other .....	19.4% ad val.	12% ad val.	75% ad val.		"

#### (b) APPLICATION WITH OTHER PROVISIONS.—

(1) The rate of duty in column numbered 1 for items 642.31 and 642.34 (as added by subsection (a)) shall be subject to any staged rate reductions for item 642.30 which were proclaimed by the President before the 15th day after the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 642.31 or 642.34 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

#### SEC. 107. REDUCTION OF DUTY ON CERTAIN CERAMIC INSULATORS.

(a) **IN GENERAL.**—Subpart D of part 2 of schedule 5 is amended by inserting immediately after item 535.12 the following new item:

"	535.13	Ceramic insulators to be used in the production of spark plugs for natural gas-fueled, stationary, internal combustion engines.....	3.6% ad val.		60% ad val.	"
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#### (b) REPEAL.—Item 909.20 of the Appendix is repealed.

(c) **PHASE-DOWN OF TEMPORARY RATE.**—Effective with respect to articles entered after December 31, 1983, item 535.13 (as added by subsection (a)) is amended by striking out "3.6% ad val." and inserting in lieu thereof "3.5% ad val.".

#### SEC. 108. PERMANENT DUTY-FREE TREATMENT OF YANKEE DRYER CYLINDERS.

(a) **IN GENERAL.**—Subpart D of part 4 of schedule 6 is amended by inserting immediately after item 668.04 the following new item:

"	668 05	Yankee dryer cylinders .....	Free		35% ad val	"
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#### (b) REPEAL.—Item 912.06 of the Appendix is repealed.

#### SEC. 109. CERTAIN AIRCRAFT COMPONENTS AND MATERIALS.

In the case of any aircraft which—

(1) was previously exported from the United States,

(2) was composed, at the time of such exportation in part of components and materials which are products of the United States and which were installed—

(A) while such aircraft was within the United States, and

(B) after such aircraft was operational,

(3) is returned to the United States after being so exported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, and

(4) was entered for consumption before 1970,

the rate of duty provided for in item 694.40 on the date of such entry shall, notwithstanding any other provision of law, be assessed upon the full value of such aircraft less the value of such components and materials; and such entry shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be reliquidated on the basis of such assessment. For the purposes of this section, the value of any such component or material is the cost of such component or material at the time of installation in the aircraft plus the cost of such installation.

19 USC 1514.

#### SEC. 110. WATCHES.

(a) **PRODUCTS OF INSULAR POSSESSIONS DEFINED.**—Paragraph (a)(i) of headnote 3 of the General Headnotes and Rules of Interpretation is amended by striking out “(or more than 70 percent of the total value with respect to watches and watch movements)”.

19 USC 1202  
note.

(b) **RATE OF DUTY ON WATCHES.**—Headnote 6 of schedule 7, part 2, subpart E is amended—

(1) by striking out “paragraph (b)” in paragraph (a) and inserting in lieu thereof “paragraphs (b) through (h)”; and

(2) by striking out “an insular possession of the United States outside the customs territory of the United States” in paragraph (a), and inserting in lieu thereof “the Virgin Islands, Guam, and American Samoa (hereinafter referred to as the ‘insular possessions’)”; and

(3) by striking out paragraphs (b) through (d) and inserting in lieu thereof the following new paragraphs:

“(b) Watches and watch movements produced or manufactured in a United States insular possession which contain any foreign component may be admitted free of duty without regard to the value of the foreign materials such watches contain if they conform with the provisions of this headnote, but the total quantity of such articles entered free of duty shall not exceed the amounts established by or pursuant to paragraph (c) of this headnote.

“(c) Notwithstanding the provisions of paragraph (b) of this headnote, the provisions of this headnote and the benefits thereunder shall not apply to any article containing any material which is the product of any country with respect to which column 2 rates of duty apply.

“(d)(i) In calendar year 1983 the total quantity of such articles which may be entered free of duty shall not exceed 4,800,000 units.

“(ii) In subsequent calendar years, the Secretary of Commerce and the Secretary of the Interior (hereinafter referred to as the “Secretaries”), acting jointly, shall establish a limit on the quantity which may be entered free of duty during the calendar year, and shall consider whether such limit is in the best interest of the insular possessions and not inconsistent with domestic or international trade policy considerations. The quantity the Secretaries establish in any calendar year under this paragraph shall not—

Limitations

“(I) exceed 10,000,000 units, or one-ninth of apparent domestic consumption (as determined by the International Trade Com-

mission pursuant to paragraph (d) of this headnote), whichever is greater;

“(II) be decreased by more than 10 percent of the quantity established for the immediately preceding calendar year; and

“(III) be increased to more than 7,000,000 units, or by more than 20 percent of the quantity established for the immediately preceding calendar year, whichever is greater.

Publication in  
Federal  
Register.

“(e) On or before April 1 of each calendar year (beginning with the first year in which watch imports from the United States insular possessions exceed 9,000,000 units), the International Trade Commission shall determine the apparent United States consumption of watches and watch movements (including solid state timepieces) during the preceding calendar year, shall report such determination to the Secretaries, and shall publish such determination in the Federal Register.

“(f)(i) In calendar year 1983, not more than 3,000,000 units of the total quantity of articles described in paragraph (d) which may be entered free of duty shall be the product of the Virgin Islands, not more than 1,200,000 units shall be the product of Guam, and not more than 600,000 units shall be the product of American Samoa.

Territorial  
shares.

“(ii) For calendar year 1984 and thereafter, the Secretaries may establish new territorial shares of the total amount which may be entered free of duty, taking into account the capacity of each territory to produce and ship its assigned amounts. A territory's share in any year shall not be reduced—

“(I) by more than 200,000 units in calendar year 1984 or 1985, and

“(II) by more than 500,000 units in calendar year 1986 or thereafter, except that no territorial share shall be established at less than 500,000 units.

Allocations.

“(g) The Secretaries, acting jointly, shall allocate the calendar year duty exemptions provided by paragraphs (b), (d), and (f) of this headnote on a fair and equitable basis among producers located in the insular possessions, and shall issue appropriate licenses therefor. Allocations made by the Secretaries shall be final. In making the allocations, the Secretaries shall consider the potential impact of territorial production on domestic production of like articles and shall establish allocation criteria (including minimum assembly requirements) that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

“(h)(i) In the case of each calendar year beginning after December 31, 1982, and before January 1, 1995, the Secretaries, acting jointly, shall—

“(I) verify the wages paid by each producer to permanent residents of the insular possessions during the preceding calendar year, and

“(II) issue to each producer (not later than March 1 of such year) a certificate for the applicable amount.

“(ii) For purposes of subparagraph (i), except as provided in subparagraphs (iii) and (iv), the term ‘applicable amount’ means an amount equal to the sum of—

“(I) 90 percent of the producer's creditable wages on the assembly during the preceding calendar year of the first 300,000 units, plus

“(II) the applicable graduated declining percentage (determined each year by the Secretaries) of the producer's creditable

wages on the assembly during the preceding calendar year of units in excess of 300,000 but not in excess of 750,000.

“(iii) The aggregate amount of all certificates which are issued during any calendar year shall not exceed an amount which bears the same ratio to \$5,000,000 as—

Certificates.

“(I) the gross national product of the United States (as determined by the Secretary of Commerce) for the preceding calendar year, bears to—

“(II) the gross national product of the United States (as so determined) for 1982.

“(iv) (I) Subject to the provision of clause (II), if the amount of the certificates issued under subparagraph (i) would exceed the limit under subparagraph (iii), the applicable amount of each producer's certificate shall be reduced proportionately by the amount of such excess.

“(II) The applicable amount of any producer's certificate shall not be reduced below the amount determined under subparagraph (ii)(I), except that if the application of this clause would result in the aggregate amount of the certificates exceeding the limit under subparagraph (iii), the applicable amount of each producer's certificate shall again be reduced proportionately by the amount of the excess determined after application of this clause.

“(v) Any certificate issued under subparagraph (i) shall entitle the certificate holder to secure the refund of duties equal to the face value of the certificate on watches, watch movements (including solid state timepieces) and, with the exception of discrete cases, parts therefor imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of such refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.

Refund.

“(vi) Any certificate issued under subparagraph (i), or any portion thereof, shall be negotiable.

“(vii) Any certificate issued under subparagraph (i) shall expire 1 year from the date of issuance and may be applied against duties on imports of watches and watch movements the entry of which were made within 2 years prior to the date of issuance of the certificate.

Expiration of certificate.

“(viii) For purposes of determining the applicable amount of any producer's certificate to be issued during calendar year 1983, the greater of—

“(I) the producer's creditable wages for calendar year 1982, or

“(II) 60 percent of the producer's creditable wages for calendar year 1981,

shall be considered the creditable wages for calendar year 1982.

“(i) The Secretaries are authorized to issue such regulations, not inconsistent with the provisions of this headnote, as they determine necessary to carry out their respective duties under this headnote. Such regulations shall include minimum assembly requirements. Any duty-free entry determined not to have been made in accordance with applicable regulations shall be subject to the applicable civil remedies and criminal sanctions, and, in addition, the Secretaries may cancel or restrict the license or certificate of any manufacturer found in willful violation of the regulations.”

Regulations.

#### SEC. 111. PIPE ORGAN PARTS.

Items 726.60 and 726.62 are amended to read as follows:

19 USC 1202 note.

“	726.60	Player actions and parts thereof	Free		60% ad val	”
	726.62	Other ...	Free		35% ad val	

19 USC 1202  
note.

#### SEC. 112. ELIMINATION OF DUTY ON TOY TEA SETS.

Subpart E of part 5 of schedule 7 is amended by inserting immediately after item 737.70 the following new item:

"	737.73	Toy tea sets of ceramic ware made to the approximate scale of 1 to 10 or larger.....	Free			70% ad val.	"
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#### SEC. 113. CLASSIFICATION OF DOLLS AND TOY FIGURES.

(a) IN GENERAL.—Subpart E of part 5 of schedule 7 is amended—  
(1) by adding at the end of the headnotes thereto the following new headnotes:

"3. For the purposes of the superior heading to items 737.47 and 737.49 and of item 737.51, 'toy figures of inanimate objects' are only imaginary creatures that either—

"(i) do not possess features of human or other earthly creatures;

"(ii) possess both earthly and non-earthly features but are predominantly non-earthly in nature; or

"(iii) possess features which are a hybrid of features of more than one animate object.

This definition does not cover toy figures of objects which are readily recognizable as vegetables, minerals, robots, or machines, whether or not such figures possess humanoid or earthly features.

"4. Items 737.23, 737.28, 737.30, and 737.47 do not include any doll or toy that either—

"(i) will maintain the three dimensional shape of its torso if the stuffing or filler is removed, or

"(ii) is constructed such that the 'filler' material consists of one piece (such as one piece of foam rubber) or more than one piece that achieves the same effect as one piece.

"5. For the purposes of items 737.26 and 737.51, 'skins' are the outer coverings or shells of those dolls or toy figures which, if imported stuffed or filled, would be classified in items 737.23, 737.28, 737.30, and 737.47, but do not contain stuffing or filling in the torso when imported.

"6. For the purposes of item 737.47, the term 'filled' includes toy figures which are not completely filled or are filled with materials such as plastic beads or crushed nutshells but which otherwise possess the characteristics of toy figures classifiable as 'stuffed'."

(2) by redesignating items 737.45 and 737.50 as 737.42 and 737.43, respectively; and

(3) by adding in numerical sequence the following new items:

"		Toy figures of inanimate objects, not having a spring mechanism:					
	737.47	Stuffed or filled.....	13.6% ad val.	7% ad val.	70% ad val.		
	731.49	Other.....	13.6% ad val.	7% ad val.	70% ad val.		
	737.51	Skins for toy figures of animate or inanimate objects.....	13.6% ad val.	7% ad val.	70% ad val.		"

#### (b) APPLICATION WITH OTHER PROVISIONS.—

(1) The rates of duty in column numbered 1 for items 737.47, 737.49, and 737.51 (as added by subsection (a)(3)) shall be subject to any staged rate reductions for item 737.95 which are proclaimed by the President before the 15th day after the date of the enactment of this Act.

### SEC. 114. ELIMINATION OF DUTY ON CASEIN BLANKS.

19 USC 1202  
note.

(2) by striking out item 745.40 and inserting in lieu thereof the following:

	Button blanks and molds, and parts of buttons.	Free		45% ad val
745 41	Button blanks of casein	22 1% ad val.	11 4% ad val	45% ad val.
745 42	Other			

(3) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of such Schedules) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

19 USC 2101.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returning residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act.

19 USC 1321  
note.

(a) **IN GENERAL.**—Subpart A of part 3 of schedule 8 is amended—

(1) by inserting immediately after "Subpart A—United States Government" the following headnote:  
 "Subpart A headnote:

"1. With respect to item 837.00, the return of materials from space by the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required."; and

(2) by adding immediately after item 836.00 the following new item:

"	837.00	Articles for the National Aeronautics and Space Administration and articles imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration: Materials certified by it to the Commissioner of Customs to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space .....	Free	Free	"
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(b) **TERMINATION.**—Item 837.00 (as added by subsection (a)) shall not apply to articles entered, or withdrawn from warehouse for consumption, after December 31, 1994.

#### SEC. 117. PRAYER SHAWLS.

Part 4 schedule 8 is amended—

(1) by striking out "and 854.20," in headnote 1 to such part and inserting in lieu thereof "854.20, and 854.30,"; and

(2) by inserting after item, 854.20 the following new item:

"	854.30	Prayer shawls, bags for the keeping of prayer shawls, and headwear of a kind used for public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution.....	Free	Free	"
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#### SEC. 118. INCREASE IN VALUE LIMITATIONS APPLICABLE TO INFORMAL ENTRIES OF IMPORTED MERCHANDISE.

The article description immediately preceding item 869.00 is amended by striking out "\$600" and inserting in lieu thereof "\$1,000".

#### SEC. 119. CERTAIN METAL WASTE AND SCRAP.

(a) **IN GENERAL.**—Part 7 of schedule 8 is amended—

(1) by inserting the following new headnote immediately after headnote 2 to such part:

"3. (a) Items 870.50 and 870.55 shall not apply when the market price of copper is under 51 cents per pound.

"(b) For purposes of subparagraph (a), the market price of copper has the meaning assigned to it by headnote 5(b) of the headnotes to schedule 6, part 2, subpart C.

"(c) For purposes of subparagraph (a), the market price of copper shall be considered to be under 51 cents per pound only on and after the twentieth day after the date of a report by the United States International Trade Commission to the Secretary of the Treasury that it has determined that the market price has been under 51 cents per pound for one calendar month. After any such report, the market price shall be considered as not being under 51 cents per



pound only on and after the twentieth day after the date of a report by the Commission to the Secretary that it has determined that the market price has been 51 cents or more per pound for one calendar month.

“(d) Determinations by the Commission under this headnote shall be made in the manner prescribed by headnote 5(c) to schedule 6, part 2, subpart C.”; and

(2) by inserting immediately after item 870.45 the following:

19 USC 1202  
note.

		Rates of Duty		
		1-a	1-b	2
“	Metal waste and scrap (provided for in part 2, schedule 6), except lead, zinc, and tungsten waste and scrap; unwrought metal including remelt scrap ingot (except copper, lead, zinc, and tungsten) in the form of pigs, ingots, or billets (a) which are defective or damaged, or have been produced from melted down metal waste and scrap for convenience in handling and transportation without sweetening, alloying, fluxing, or deliberate purifying, and (b) which cannot be commercially used without remanufacture, relaying or re-rolling rails; and articles of metal (except articles of lead, of zinc, or of tungsten, and not including metal-bearing materials provided for in schedule 4 or in part 1 of schedule 6 and not including unwrought metal provided for in part 2 of schedule 6) to be used in remanufacture by melting or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content			
870.50	Copper waste and scrap .....	Free	The column 1-b rate applicable in the absence of this item	The column 2 rate applicable in the absence of this item
870.55	Articles of copper .....	Free	The column 1-b rate applicable in the absence of this item	The column 2 rate applicable in the absence of this item
		Rates of Duty		
		1	2	
870.60	Other .....	Free	Free	”.

(b) **CONFORMING AMENDMENT.**—Headnote 5(a) to subpart C of part 2 of schedule 6 is amended by inserting “and for items 870.50 and 870.55,” immediately after “In this subpart,”.

(c) **REPEALS.**—Subpart B of part 1 of the Appendix is amended—

(1) by striking out “911.10, 911.11,” in headnote 3(a) to such subpart; and

(2) by striking items 911.10, 911.11, and 911.12 and the superior heading to such items.

**SEC. 120. TEMPORARY SUSPENSION OF DUTY ON CERTAIN BULK FRESH CARROTS.**

Subpart B of part 1 of the Appendix is amended—

(1) by striking out headnote 2 and inserting in lieu thereof the following:

“2. For purposes of item 903.25—

“(a) the term ‘culled carrots’ refers to those carrots which fail to meet the requirements of the United States Department of Agriculture for carrots of grades ‘U.S. No. 1’ or ‘U.S. No. 2’ (See 7 CFR sections 2851.4141 and 2851.4142); and

“(b) the total quantity of carrots which may be entered under item 903.25 during the period specified in that item shall not exceed 20,000 tons.”; and

(2) by inserting in numerical sequence the following new item:

“	903.25	Culled carrots, fresh or chilled in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8d, schedule 1) if entered for consumption during the period from August 15 in any year, to the 15th day of the following February inclusive.....	Free	No change	On or before 12/31/84	”.
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#### SEC. 121. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON CERTAIN RED PEPPERS.

19 USC 1202  
note.

Item 903.60 of subpart B of part 1 of the Appendix is amended by striking out “6/30/81” and inserting in lieu thereof “6/30/85”.

#### SEC. 122. TEMPORARY SUSPENSION OF DUTY ON CANTALOUPE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	903.65	Cantaloupes, fresh, if entered during the period from January 1 to May 15, inclusive of any year (provided for in items 148.12 and 148.17 part 9B, schedule 1).....	Free	No change	On or before 5/15/85	”.
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#### SEC. 123. TEMPORARY SUSPENSION OF DUTY ON CAROB FLOUR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	903.69	Carob flour (provided for in item 152.05, part 9C, schedule 1).....	Free	No change	On or before 12/31/84	”.
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#### SEC. 124. TEMPORARY SUSPENSION OF DUTY ON HATTERS' FUR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	903.85	Fur, not on the skin, prepared for hatters' use (provided for in item 186.20).....	Free	No change	On or before 12/31/85	”.
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#### SEC. 125. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON WOOD EXCELSIOR.

Item 904.00 of the Appendix is amended by striking out “6/30/81” and inserting in lieu thereof “6/30/83”.

**SEC. 126. TEMPORARY SUSPENSION OF DUTY ON NEEDLECRAFT DISPLAY MODELS.**

Subpart B of part 1 of the Appendix is amended as follows:

19 USC 1202  
note.

(1) The headnotes to such subpart are amended by adding at the end thereof the following new headnote:

"5. For the purposes of the superior heading to items 906.10 and 906.12, the term 'mass-produced kits' includes only those which are designed to be sold in the customs territory of the United States exclusively in kit form."

(2) The following new superior heading and new items are inserted in numerical sequence:

"	Needle-craft display models, primarily hand stitched, of completed mass-produced kits: Articles provided for in items 355.16, 360.70, 360.78, 364.18, 364.23, 364.30, 365.78, 365.84, 365.86, 366.79, 367.34, 367.55, 367.60, 368.04, 368.06, 368.09, 368.50, 388.40, and 389.62 of schedule 3 (except shoe uppers and tents).....	Free	No change	On or before 6/30/85	"
906.12	Aprons and baby bibs (provided for in items 383.03, 383.08, 383.20, and 383.50 of schedule 3).....	Free	No change	On or before 6/30/85	"

**SEC. 127. TEMPORARY SUSPENSION OF DUTY ON P-HYDROXYBENZOIC ACID.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.00 P-Hydroxybenzoic Acid (provided for in item 404.44, part 1, schedule 4).....	Free	No change	On or before 9/30/85	"
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**SEC. 128. TEMPORARY SUSPENSION OF DUTY ON TRIPHENYL PHOSPHATE**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.01 Triphenyl phosphate (provided for in item 404.48, part 1B, schedule 4).....	Free	No change	On or before 9/30/85	"
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**SEC. 129. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON BIS (4-AMINOBENZOATE)-1,3 PROPANEDIOL (TRIMETHYLENE GLYCOL DI-P-AMINOBENZOATE).**

Item 907.05 of the Appendix is amended—

(1) by striking out "however provided for in items 402.36 through 406.63" and inserting in lieu thereof "provided for in item 405.07"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/84".

**SEC. 130. TEMPORARY SUSPENSION OF DUTY ON 4-CHLORO-3-METHYL-PHENOL.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.08	4-chloro-3-methylphenol (CAS No. 59-50-7) (provided for in item 409.56, part 1B, schedule 4) .....	Free	No change	On or before 6/30/84	"
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**SEC. 131. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON CERTAIN PHOTOGRAPHIC COUPLERS.**

19 USC 1202  
note.

Items 907.10 and 907.12 of the Appendix are amended by striking out "6/30/82" and inserting in lieu thereof "9/30/85".

**SEC. 132. TEMPORARY SUSPENSION OF DUTY ON ETHYLBIPHENYL.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.14	Mixtures of 3-ethylbiphenyl (methylbiphenyl) and 4-ethylbiphenyl (P-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)...	Free	No change	On or before 6/30/85	"
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**SEC. 133. TEMPORARY REDUCTION OF DUTY ON DICOFOL.**

(a) **IN GENERAL.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.15	1,1-Bis (4-Chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4) .....	10.3% ad val.	7¢ per lb. + 41% ad val.	On or before 9/30/85	"
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(b) **PHASE-DOWN OF TEMPORARY RATE.**—Effective with respect to articles provided for in item 907.15 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on and after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1984 .....	9.5% ad val.
January 1, 1985 .....	8.6% ad val.

(c) **SPECIAL RATE FOR LEAST DEVELOPED DEVELOPING COUNTRIES.**—The rate of duty on an article provided for in such item 907.15 that is—

- (1) entered, or withdrawn from warehouse for consumption on or after the effective date of the amendment made by subsection (a) and before October 1, 1985; and

(2) a product of a least developed developing country; shall be 6.9 percent ad valorem.

(d) **RETROACTIVE PROVISION.**—In the case of the application of the amendments made by this section to any entry—

- (1) which was made before the 15th day after the date of the enactment of this Act;
- (2) which was unliquidated, or the liquidation of which was not final, on such day; and
- (3) with respect to which there would have been less duty if the amendments made by this section applied to such entry; such entry shall be liquidated as though such entry had been made on such 15th day.

**SEC. 134. TEMPORARY SUSPENSION OF DUTY ON UNCOMPOUNDED ALLYL RESINS.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

19 USC 1202  
note.

"	907.16	Allyl resins, uncompounded (provided for in item 408.96, part 1C, schedule 4) .....	Free	No change	On or before 9/30/84	"
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**SEC. 135. TEMPORARY SUSPENSION OF DUTY ON SULFAPYRIDINE.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.17	Sulfapyridine (provided for in item 411.28, part 1C, schedule 4) .....	Free	Free	On or before 12/31/85	"
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**SEC. 136. TEMPORARY REDUCTION OF DUTY ON SULFATHIAZOLE.**

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.19	Sulfathiazole (provided for in item 411.80) .....	13.3% ad val.	7¢ per lb. + 80% ad val.	On or before 12/31/83	"
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(b) During such time as item 907.22 (as added by subsection (a)) is in effect, the rate of duty on sulfathiazole that is a product of a least developed developing country shall be 8 percent ad valorem.

(c) (1) With respect to articles entered after December 31, 1983, and before January 1, 1985, item 907.22 is amended by striking out "13.3% ad val." and inserting in lieu thereof "11.9% ad val.", and by striking out "12/31/83" and inserting in lieu thereof "12/31/84".

(2) With respect to articles entered after December 31, 1984, and before January 1, 1986, item 907.22 is amended by striking out "11.9% ad val." and inserting in lieu thereof "10.6% ad val.", and by striking out "12/31/84" and inserting in lieu thereof "12/31/85".

**SEC. 137. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON DOXORUBICIN HYDROCHLORIDE.**

Item 907.20 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "6/30/88".

**SEC. 138. TEMPORARY REDUCTION OF DUTY ON CAFFEINE.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.22	Caffeine (provided for in item 437.02, part 3B, schedule 4) .....	6% ad val.	No change	On or before 12/31/83	"
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**SEC. 139. TEMPORARY SUSPENSION OF DUTY ON TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"	907.65	Tartaric acid (provided for in item 425.94, part 2D, schedule 4).....	Free	No change	On or before 6/30/84	"
	907.66	Potassium salts: Antimony tartrate (tartar emetic) (provided for in item 426.72, part 2D, schedule 4)....	Free	No change	On or before 6/30/84	"
	907.68	Cream of tartar (provided for in item 426.76, part 2D, schedule 4)...	Free	No change	On or before 6/30/84	"
	907.69	Sodium tartrate (Rochelle salts) (provided for in item 426.82, part 2D, schedule 4).....	Free	No change	On or before 6/30/84	"

**SEC. 140. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON NATURAL GRAPHITE.**

19 USC 1202  
note.

Item 909.01 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "12/31/84".

**SEC. 141. TEMPORARY SUSPENSION OF DUTY ON COPPER SCALE.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.05	Copper scale (provided for in item 603.70, part 1, schedule 6).....	Free	No change	On or before 12/31/85	"
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**SEC. 142. CHIPPER KNIFE STEEL.**

Item 911.29 is amended—

(1) effective with respect to articles entered on or after October 1, 1982, and before January 1, 1983, by striking out "4.6% ad val." and inserting in lieu thereof "4.4% ad val.", and by striking out "9/30/82" and inserting in lieu thereof "12/31/82";

(2) effective with respect to articles entered after December 31, 1982, and before January 1, 1984, by striking out "4.4% ad val." and inserting in lieu thereof "4.2% ad val.", and by striking out "12/31/82" and inserting in lieu thereof "12/31/83";

(3) effective with respect to articles entered after December 31, 1983, and before January 1, 1985, by striking out "4.2% ad val." and inserting in lieu thereof "4.0% ad val.", and by striking out "12/31/83" and inserting in lieu thereof "12/31/84"; and

(4) effective with respect to articles entered after December 31, 1984, and before April 1, 1985, by striking out "4.0% ad val." and inserting in lieu thereof "3.9% ad val.", and by striking out "12/31/84" and inserting in lieu thereof "3/31/85".

**SEC. 143. TEMPORARY SUSPENSION OF DUTY ON CERTAIN FREIGHT CONTAINERS.**

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.80	Freight containers specially designed and equipped to facilitate the carriage of goods by one or more modes of transport without intermediate reloading, each having a gross mass rating of at least 40,000 pounds (provided for in item 640.50, part 3A, schedule 6).....	Free	No change	On or before 12/31/86	"
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**SEC. 144. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON COBALT.**

Item 911.90 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "6/30/83".

19 USC 1202  
note.

**SEC. 145. TEMPORARY SUSPENSION OF DUTY ON CERTAIN CLOCK RADIOS.**

Subpart B of part 1 of the Appendix is amended—

(1) by adding at the end of the headnotes to such subpart the following new headnote:

"6. For the purposes of item 911.95, the term 'entertainment broadcast band receivers' means receivers designed principally to receive signals in the AM (530-1710 KHz) and FM (88-108 MHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands such as aviation, television, marine, public safety, industrial, and citizens bands."; and

(2) by inserting in numerical sequence the following new item:

"	911.95	Entertainment broadcast band receivers valued not over \$40 each (however provided for in schedule 6), incorporating timekeeping or time display devices, not in combination with any other article, and not designed for motor vehicle installation.....	Free	No change	On or before 9/30/84	"
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**SEC. 146. EXTENSION OF TEMPORARY SUSPENSION OF DUTY ON BICYCLE PARTS.**

(a) **GENERATOR LIGHTING SETS.**—Item 912.05 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

(b) **OTHER PARTS.**—Item 912.10 of the Appendix is amended—

(1) by deleting "click stick levers," and inserting in lieu thereof "trigger and twist grip controls for three-speed hubs,";

(2) by inserting "including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length," immediately after "parts of all the foregoing,"; and

(3) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

**SEC. 147. TEMPORARY SUSPENSION OF DUTY ON HEAT-SET, STRETCH TEXTURING MACHINES.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.07	Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in item 670.06, part 4E, schedule 6)...	Free	No change	On or before 12/31/85	"
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**SEC. 148. TEMPORARY SUSPENSION OF DUTY ON HOSIERY KNITTING MACHINES.**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.08	Single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines (provided for in items 670.16 and 670.18, part 4E, schedule 6).....	Free	No change	On or before 9/30/85	"
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19 USC 1202  
note.

#### SEC. 149. TEMPORARY SUSPENSION OF DUTY ON DOUBLE-HEADED LATCH NEEDLES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.09	Double-headed latch needles (provided for in item 670.58, part 4E, schedule 6) .....	Free	No change	On or before 6/30/85	"
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#### SEC. 150. TEMPORARY SUSPENSION OF DUTY ON PROSTHESES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.15	Externally-powered electric prosthetic devices for amputees (provided for in item 709.57, part 2B, schedule 7), and parts thereof .....	Free	No change	On or before 9/30/84	"
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#### SEC. 151. TEMPORARY SUSPENSION OF DUTY ON SMALL TOYS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.20	Articles provided for in parts 5D and 5E of schedule 7 (except balloons, marbles, dice, and diecast vehicles), valued not over five cents per unit; and jewelry provided for in part 6A of schedule 7 (except parts), valued not over 1.6 cents per piece .....	Free	No change	On or before 12/31/86	"
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#### SEC. 152. TEMPORARY SUSPENSION OF DUTY ON CERTAIN DOLLS AND TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting at the end thereof the following new items:

"	912.30	Stuffed dolls (with or without clothing) and doll skins for stuffed dolls (provided for respectively in items 737.21, 737.23 and 737.26, part 5E, schedule 7) .....	Free	No change	On or before 12/31/85	
	912.34	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in item 737.47, part 5E, schedule 7) .....	Free	No change	On or before 12/31/85	
	912.36	Skins for stuffed toy figures of animate and inanimate objects (provided for in item 737.51, part 5E, schedule 7) .....	Free	No change	On or before 12/31/85	"

#### SEC. 153. 2-YEAR EXTENSION OF THE INTERNATIONAL SUGAR AGREEMENT.

Section 2 of the Act entitled "An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes" (Public Law 96-236; 7 U.S.C. 3602) is amended by striking out "1983" and inserting in lieu thereof "1985".



**SEC. 154. 1-YEAR EXTENSION OF THE INTERNATIONAL COFFEE AGREEMENT.**

Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "the expiration of this joint resolution" and inserting in lieu thereof "October 1, 1983".

*Ante*, p. 1204.

**SEC. 155. UPLAND COTTON.**

Section 103(f)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)(3)) shall be effective for the 1982 through 1985 crops of upland cotton amended to read as follows:

"(3) Notwithstanding any other provision of law, any upland cotton described in items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) imported into the United States during the period of time when a special quota established under this subsection is in effect shall be deemed to be an import under such special quota until the special quota is filled and any such cotton shall be free of duty."

**SEC. 156. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as provided in subsection (b) and sections 109, 115, and 133, the amendments made by this subtitle shall apply to articles entered on or after the 15th day after the date of the enactment of this Act.

(b) **RETROACTIVE APPLICATION.**—

(1) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

19 USC 1514.

(2) **APPLICABLE SECTIONS.**—In the case of the application of the amendment made by section 102, 107, 108, 119, 121, 125, 131, 137, 139, 140, 142, or 144 to any entry—

(A) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(3) **APPLICABLE DATE.**—For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of section 139, June 30, 1980;

(B) in the case of section 102, March 31, 1981;

(C) in the case of sections 107, 119, 121, 125, and 140, June 30, 1981;

(D) in the case of section 108, December 31, 1981;

(E) in the case of sections 131, 137, and 144, June 30, 1982; and

(F) in the case of section 142, September 30, 1982.

(c) **DEFINITIONS.**—For purposes of this subtitle—

(1) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States; and

(2) the term "entry" includes any withdrawal from warehouse for consumption.

Educational,  
Scientific, and  
Cultural  
Materials  
Importation Act  
of 1982.

#### SUBTITLE B—IMPLEMENTATION OF NAIROBI PROTOCOL

##### SEC. 161. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This subtitle may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1982".

(b) **PURPOSE.**—The purpose of this subtitle is to enable the United States to give effect to the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials (opened for signature on March 1, 1977) with a view to contributing to the cause of peace through freer exchange of ideas and knowledge across national boundaries.

##### SEC. 162. BOOKS, PUBLICATIONS, AND DOCUMENTS.

19 USC 1202  
note.

Part 5 of schedule 2 is amended—

(1) by inserting, in numerical sequence, the following new item:

"	270.90	Catalogs of films, recordings or other visual and auditory material of an educational, scientific, or cultural character .....	Free		Free	"
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(2) by striking out items 273.45 through 273.55, and the superior heading thereto, and inserting in lieu thereof the following:

"	273.52	Architectural engineering, industrial, or commercial drawings and plans, whether originals or reproductions .....	Free		Free	"
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and

(3) by inserting immediately below the phrase "Printed not over 20 years at time of importation:" and above (and at the same hierarchical level as) "Lithographs on paper:" the following new item:

"	274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books .....	Free		Free	"
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##### SEC. 163. VISUAL AND AUDITORY MATERIALS.

(a) **PHOTOGRAPHIC FILM.**—Part 5 of schedule 2 is amended—

(1) by inserting the phrase "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles)" immediately after "Photographs" in the superior heading to items 274.50 through 274.70, and

(2) by adding, in numerical sequence, the following new item:

"	274.67	Developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles .....	Free		Free	"
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(b) **MOTION PICTURE FILMS.**—Subpart G of part 2 of schedule 7 is amended—

(1) by striking out "724.05 and 724.10" in headnote 1 and inserting in lieu thereof "724.07 and 724.22",

- (2) by striking out headnote 2,  
 (3) by striking out items 724.05 and 724.10, and the superior heading thereto, and inserting in lieu thereof the following:

"	724.07	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed .....	Free		Free	"
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- (4) by striking out items 724.15 through 724.40 and inserting in lieu thereof the following new item:

"	724.22	Sound recordings, combination sound and visual recordings, and magnetic recordings not provided for in the foregoing provisions of this subpart .....	Free		Free	"
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and

- (5) by striking out the rates of duty appearing in rate columns 1, LDDC, and 2 for item 724.12 and inserting "Free" in rate columns numbered 1 and 2.

(c) **PATTERNS, MODELS, ETC.**—Part 7 of schedule 8 is amended—

19 USC 1202  
note.

- (1) by striking out headnote 1 and redesignating headnote 2 as headnote 1,  
 (2) by striking out item 870.30, and  
 (3) by inserting, in numerical sequence, the following new item:

"	870.35	Patterns, models (except toy models) and wall charts of an educational, scientific or cultural character, mock-up or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing .....	Free		Free	"
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**SEC. 164. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.**

Part 4 of schedule 8 is amended by adding in numerical sequence, the following new item:

"	851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus admitted under item 851.60 .....	Free		Free	"
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**SEC. 165. ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.**

(a) **ELIMINATION OF DUTY.**—Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(b) **SPECIALLY DESIGNED ARTICLES.**—Part 7 of schedule 8 is amended—

- (1) by inserting, in numerical sequence, the following new items:

"		Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:				
		Articles for the blind:				
	870.50	Books, music, and pamphlets, in raised print, used exclusively by or for them .....	Free		Free	
	870.55	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively .....	Free		Free	
	870.60	Other .....	Free		Free	"

and

- (2) by adding the following new headnote:  
 "2. For the purposes of items 870.50, 870.55, and 870.60—

“Physically or mentally handicapped persons.”

“(a) The term ‘physically or mentally handicapped persons’ includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“(b) These items do not cover—

“(i) articles for acute or transient disability;

“(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

“(iii) therapeutic and diagnostic articles; or

“(iv) medicine or drugs.”

(c) **STATISTICAL INFORMATION.**—The Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which the amendments made by this section apply.

#### SEC. 166. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER THIS ACT.

##### (a) **AUTHORITY TO LIMIT.**—

(1) **IN GENERAL.**—In addition to any authority under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), the President may proclaim changes in the Tariff Schedules of the United States (19 U.S.C. 1202) to narrow the scope of, or place conditions upon, the duty-free treatment accorded under section 164, section 165, or section 167(b) (insofar as section 167(b) relates to temporary duty-free treatment of articles covered by sections 164 and 165) with respect to any type of article the duty-free treatment of which—

(A) has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and

(B) is not provided for in the Florence Agreement or the Nairobi Protocol.

(2) **RATES WHICH ARE TO TAKE EFFECT IF DUTY-FREE TREATMENT ELIMINATED.**—If the President eliminates any duty-free treatment under paragraph (1), the rate of duty thereafter applicable to any article which is—

(A) affected by such action, and

(B) imported from any source,

shall be the rate proclaimed by the President as the rate applicable to such article from such source (determined without regard to this subtitle).

(b) **RESTORATION OF TREATMENT.**—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored in whole or in part without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Appendix to the Tariff Schedules of the United States to resume such duty-free treatment.

(c) **OPPORTUNITY TO PRESENT VIEWS.**—Before taking an action authorized by subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

**SEC. 167. EFFECTIVE DATE; TEMPORARY DUTY-FREE TREATMENT.**

(a) **IN GENERAL.**—The amendments made by sections 162, 163, 164, and 165 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which the President proclaims as the date on which he ratifies the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

**(b) TEMPORARY DUTY-FREE TREATMENT.—**

(1) **ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.**—Subject to the provisions of paragraph (3) and section 166, the President shall proclaim changes to the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) to implement the provisions of section 165 with respect to articles entered, or withdrawn from warehouse for consumption, during the two and one-half-year period beginning on the thirtieth day following the date of the enactment of this subtitle.

(2) **OTHER ARTICLES.**—Subject to the provisions of paragraph (3) and section 166, the President, if he deems such action to be in the interest of the United States, may proclaim further changes to the Appendix to the Tariff Schedules of the United States to implement any provision of section 162, 163, or 164 with respect to articles entered, or withdrawn from warehouse for consumption, during any period beginning on or after the thirtieth day following the date of the enactment of this subtitle and ending not later than two and one-half years after such beginning date.

(3) **TIME PROVISIONS CEASE TO HAVE EFFECT.**—If any temporary duty-free treatment accorded under paragraph (1) or (2) has not yet expired, such treatment shall cease to be effective on and after the date proclaimed by the President pursuant to subsection (a).

**TITLE II—MISCELLANEOUS CUSTOMS PROVISIONS****SEC. 201. INTERNATIONAL TRANSMISSION OF BUSINESS DOCUMENTS; IMPORTERS OF RECORD.****(a) General headnote 5 is amended—**

- (1) by striking out “and” at the end of subdivision (d);
- (2) by redesignating subdivision (e) as subdivision (f); and
- (3) by adding immediately after subdivision (d) the following: “(e) records, diagrams, and other data with regard to any business, engineering, or exploration operation whether on paper, cards, photographs, blueprints, tapes, or other media; and”.

**(b) Item 870.10 is repealed.****(c) Section 483 of the Tariff Act of 1930 (19 U.S.C. 1483) is repealed.****(d) Section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—****(1) by amending subsection (a)—**

(A) by amending that part of paragraph (1) thereof which precedes subparagraph (A) to read as follows: “Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, one of the parties qualifying as ‘importer of record’ under paragraph (2)(C) of this subsection, either in person or by an agent authorized by him in writing—”,

19 USC 1202  
note.

Repeals.

19 USC 1490,  
1498, 1552, 1553,  
1336.

Merchandise  
entry  
documentation.

19 USC 1641.

Effective date.  
19 USC 1484  
note.

Convention on  
Cultural  
Property  
Implementation  
Act.  
19 USC 2601  
note.

(B) by redesignating paragraph (2)(C) as paragraph (2)(D), and by inserting immediately after paragraph (2)(B) the following:

“(C) When an entry of merchandise is made under this section, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641 of this Act. When a consignee declares on entry that he is the owner or purchaser of merchandise, the appropriate customs officer may, without liability, accept the declaration. For the purposes of this title, the importer of record must be one of the parties who is eligible to file the documentation required by this section.”, and

(C) by striking out “consignees” in paragraph (2)(D) (as redesignated by subparagraph (B)) and inserting in lieu thereof “importers of record”;

(2) by striking out “consignee” in subsections (c) and (d) and inserting in lieu thereof “importer of record”; and

(3) by amending subsections (h) and (i) to read as follows:

“(h) The carrier bringing the merchandise into the port at which entry is to be made may certify any person to be the owner, purchaser, or consignee of the merchandise, and that person may be accepted as such by the appropriate customs officer. A carrier shall not certify a person pursuant to this subsection unless it has actual knowledge of or reason to believe in the accuracy of such certification.

“(i) For the purposes of this section, the appropriate customs officer may accept a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made.”.

(e) Sections 485, 487, 494, and 505(a) of the Tariff Act of 1930 (19 U.S.C. 1485, 1487, 1494, and 1505(a)) are each amended by striking out “consignee” wherever it appears and inserting in lieu thereof “importer of record”.

(f) Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended—

(1) by inserting “purchaser” immediately after “owner” in the first sentence of subsection (a); and

(2) by striking out “consignee” in subsection (d) and substituting in lieu thereof “importer of record”.

(g) The amendments made by this section shall apply with respect to merchandise entered on and after the 30th day after the date of the enactment of this Act.

#### SEC. 202. DELIVERY INTO SUCCESSIVE BONDED WAREHOUSES REGARDLESS OF LOCATION.

The first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended by striking out “at an exterior port” and “immediate”.

### TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Convention on Cultural Property Implementation Act”.

## SEC. 302. DEFINITIONS.

19 USC 2601.

For purposes of this title—

(1) The term “agreement” includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term “archaeological or ethnological material of the State Party” means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old; and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term “Committee” means the Cultural Property Advisory Committee established under section 206.

(4) The term “consignee” means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

*Ante*, p. 2349.

(5) The term “Convention” means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term “cultural property” includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term “designated archaeological or ethnological material” means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(8) The term “Secretary” means the Secretary of the Treasury or his delegate.

(9) The term “State Party” means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

19 USC 2602.

**SEC. 303. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.**

**(a) AGREEMENT AUTHORITY.—**

(1) **IN GENERAL.**—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 307 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes; the President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2) **AUTHORITY OF PRESIDENT.**—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 307 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) **REQUESTS.**—A request made to the United States under article 9 of the Convention by a State Party must be accompa-



nied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

(4) **IMPLEMENTATION.**—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) **EFFECTIVE PERIOD.**—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) **RESTRICTIONS ON ENTERING INTO AGREEMENTS.**—

(1) **IN GENERAL.**—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) **EXCEPTION TO RESTRICTIONS.**—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in deterring a serious situation of pillage.

(d) **SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.**—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2)) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e) **EXTENSION OF AGREEMENTS.**—The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that—

Publication in  
Federal  
Register.  
Submittal to  
Committee.

Report to  
Congress.

Report to  
Congress.

19 USC 2603.

(1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and  
(2) no cause for suspension under subsection (d) exists.  
(f) **PROCEDURES.**—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

(A) required under section 306(f) (1) or (2), and

(B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g) **INFORMATION ON PRESIDENTIAL ACTION.**—

(1) **IN GENERAL.**—In any case in which the President—

(A) enters into or extends an agreement pursuant to subsection (a) or (e), or

(B) applies import restrictions under section 204, the President shall, promptly after taking such action, submit a report to the Congress.

(2) **REPORT.**—The report under paragraph (1) shall contain—

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) **INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.**—If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

#### **SEC. 304. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.**

(a) **EMERGENCY CONDITION DEFINED.**—For purposes of this section, the term “emergency condition” means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling,

dispersal, or fragmentation which is, or threatens to be, of crisis proportions;  
and application of the import restrictions set forth in section 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b) **PRESIDENTIAL ACTION.**—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 307 with respect to such material.

(c) **LIMITATIONS.**—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 303(a) to the United States and has supplied information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 303(f)(2) on the request of the State Party under section 303(a). Report.

(3) No import restrictions set forth in section 307 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 303(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended. Extension.  
Report

(4) The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203 or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

**SEC. 305. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.** 19 USC 2604.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, after consultation with the Director of the United States Information Agency, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restric-

tions under section 307 are applied only to the archeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

19 USC 2605.

**SEC. 306. CULTURAL PROPERTY ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—There is established the Cultural Property Advisory Committee.

(b) **MEMBERSHIP.**—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Members of the Committee shall be appointed for terms of two years and may be reappointed for 1 or more terms.

(B) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) **EXPENSES.**—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) **TRANSACTION OF BUSINESS.**—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) **STAFF AND ADMINISTRATION.**—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) **REPORTS BY COMMITTEE.**—

(1) The Committee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review;

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

**(g) COMMITTEE REVIEW.—**

(1) **IN GENERAL.**—The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) **ACTION BY COMMITTEE.**—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

Report to  
Congress.

5 USC app.

(h) **FEDERAL ADVISORY COMMITTEE ACT.**—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) **CONFIDENTIAL INFORMATION.**—

(1) **IN GENERAL.**—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

(C) the Committee established under this title.

(2) **GOVERNMENTAL INFORMATION.**—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) **NO AUTHORITY TO NEGOTIATE.**—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

19 USC 2606.

**SEC. 307. IMPORT RESTRICTIONS.**

(a) **DOCUMENTATION OF LAWFUL EXPORTATION.**—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) **CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.**—If the consignee of any designated archaeological or ethnological material is

unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that date of entry, or

(B) on or before the date on which such material was designated under section 305,

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

Seizure and  
forfeiture.

(c) DEFINITION OF SATISFACTORY EVIDENCE.—The term “satisfactory evidence” means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.

(d) **RELATED PERSONS.**—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

19 USC 2607.

**SEC. 308. STOLEN CULTURAL PROPERTY.**

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

19 USC 2608.

**SEC. 309. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.**

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 307 or section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

19 USC 2609.

**SEC. 310. SEIZURE AND FORFEITURE.**

(a) **IN GENERAL.**—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) **ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.**—Any designated archaeological or ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or



(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

**(c) ARTICLES OF CULTURAL PROPERTY.—**

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 208, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

**SEC. 311. EVIDENTIARY REQUIREMENTS.**

19 USC 2610.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and

(2) in the case of any article subject to section 308, that the article—

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the

Convention for the State Party concerned, whichever date is later.

19 USC 2611.

**SEC. 312. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.**

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

**SEC. 313. REGULATIONS.**

19 USC 2612.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

**SEC. 314. ENFORCEMENT.**

19 USC 2613.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

**SEC. 315. EFFECTIVE DATE.**

19 USC 2601

(a) **IN GENERAL.**—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

note.  
Publication in  
Federal  
Register.

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) **EXCEPTION.**—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 at any time after the date of the enactment of this Act.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 4566:**

**HOUSE REPORTS:** No. 97-257 (Comm. on Ways and Means) and No. 97-989 (Comm. of Conference).

**SENATE REPORT** No. 97-564 (Comm. on Finance).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Oct. 13, considered and passed House.

Vol. 128 (1982): Dec. 19, considered and passed Senate, amended.

Dec. 21, House agreed to conference report.

Dec. 22, Senate agreed to conference report.

Public Law 97-447  
97th Congress

An Act

Jan. 12, 1983  
[H.R. 4491]

To exempt the United States Capitol Historical Society from certain taxes.

United States  
Capitol  
Historical  
Society, tax  
exemption.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Act entitled "An Act to incorporate the United States Capitol Historical Society", approved October 20, 1978 (36 U.S.C. 1201 et seq.), is amended by adding at the end thereof the following new section:

**"EXEMPTION FROM CERTAIN TAXES**

36 USC 1219.

**"SEC. 19.** Notwithstanding section 105 of title 4, United States Code, or title 47, chapter 26 of the District of Columbia Code (1973), or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such sections applicable to taxable events occurring within the United States Capitol building and grounds on or after January 1, 1964."

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 4491:**

HOUSE REPORT No. 97-445 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 13, considered and passed House.  
Dec. 20, considered and passed Senate.

Public Law 97-448  
97th Congress

An Act

To make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation.

Jan. 12, 1983  
[H.R. 6056]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Technical  
Corrections Act  
of 1982.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Technical Corrections Act of 1982”.

26 USC 1 note.

(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

## TITLE I—AMENDMENTS RELATED TO ECONOMIC RECOVERY TAX ACT OF 1981

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE ACT.

(a) **AMENDMENTS RELATED TO SECTION 101.**—

95 Stat. 176.

(1) **EFFECTIVE DATE FOR AMENDMENT TO SECTION 21.**—Paragraph (1) of section 101(f) of the Economic Recovery Tax Act of 1981 (relating to effective dates for rate cuts) is amended by inserting before the period at the end thereof the following: “, except that the amendment made by paragraph (3) of subsection (d) shall apply to taxable years ending after December 31, 1981”.

95 Stat. 185.  
26 USC 1 note.

(2) **RATE REDUCTION TAX CREDIT.**—Section 6428 (relating to 1981 rate reduction tax credit) is amended by adding at the end thereof the following new subsection:

26 USC 6428.

“(d) **SPECIAL RULES.**—For purposes of this section—

“(1) **INDIVIDUALS TO WHOM 50 PERCENT MAXIMUM RATE OR 20 PERCENT CAPITAL GAIN RATE APPLIES.**—

“(A) **IN GENERAL.**—In the case of any individual to whom this paragraph applies, in determining the amount of the credit allowable under subsection (a)—

“(i) the portion of the tax imposed by section 1 determined under section 1348(a)(2) (as in effect before its repeal by the Economic Recovery Tax Act of 1981), and

“(ii) the portion of the tax imposed by section 1 determined under subsection (a)(2)(B) of section 102 of the Economic Recovery Tax Act of 1981,

shall not be taken into account.

95 Stat. 186.  
26 USC 1201  
note.

“(B) **INDIVIDUALS TO WHOM PARAGRAPH APPLIES.**—This paragraph applies to any individual if the tax imposed by section 1 for the taxable year is determined under—

“(i) section 1348 (as in effect before its repeal by the Economic Recovery Tax Act of 1981), or

95 Stat. 186.  
26 USC 1201  
note.

“(ii) section 102(a)(2) of the Economic Recovery Tax Act of 1981.

“(2) SPECIAL RULE FOR TAX IMPOSED BY SECTION 402 (e).—The tax imposed by subsection (e) of section 402 shall be treated as a tax imposed by section 1.”

26 USC 1 note.

(3) ELIMINATION OF 50-CENT ROUNDING ERRORS.—If any figure in any table—

95 Stat. 176.

(A) which is set forth in section 1 of the Internal Revenue Code of 1954 (as amended by section 101 of the Economic Recovery Tax Act of 1981), and

(B) which applies to married individuals filing separately or to estates and trusts,  
differs by not more than 50 cents from the correct amount under the formula used in constructing such table, such figure is hereby corrected to the correct amount.

95 Stat. 186.  
26 USC 1201  
note.

(aa) AMENDMENT RELATED TO SECTION 102.—Clause (ii) of section 102(b)(1)(B) of the Economic Recovery Tax Act of 1981 is amended by striking out “qualified net capital gain” and inserting in lieu thereof “qualified net capital gain (or, if lesser, the alternative minimum taxable income within the meaning of section 55(b)(1) of such Code)”.

95 Stat. 188.  
26 USC 402.

(b) AMENDMENT RELATED TO SECTION 104.—Subparagraph (C) of section 402(e)(1) (relating to imposition of separate tax on lump sum distributions) is amended by striking out “\$2,300” and inserting in lieu thereof “the zero bracket amount applicable to such an individual for the taxable year”.

95 Stat. 190.

(c) AMENDMENTS RELATED TO SECTION 111.—

26 USC 911.

(1) CLARIFICATION OF LIMITATION ON BENEFIT.—Subsection (d) of section 911 (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) AGGREGATE BENEFIT CANNOT EXCEED FOREIGN EARNED INCOME.—The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(3)(A) for the taxable year shall not exceed the individual’s foreign earned income for such year.”

(2) TECHNICAL AMENDMENT.—Clause (ii) of section 911(c)(3)(B) (relating to special rules where housing expenses not provided by employer) is amended by striking out “subsection (a)(1)” and inserting in lieu thereof “subsection (a)”.

95 Stat. 197.  
26 USC 1034  
note.

(d) AMENDMENT RELATED TO SECTION 122.—Subsection (c) of section 122 of the Economic Recovery Tax Act of 1981 (relating to effective date for increase in rollover period for principal residence) is amended by adding at the end thereof the following new sentences:

“Notwithstanding the preceding sentence, the taxpayer may elect to have the amendments made by this section not apply to any old residence sold or exchanged on or before August 13, 1981. Such an election shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.”

95 Stat. 197.

(e) AMENDMENTS RELATED TO SECTION 124.—

(1) BENEFITS MUST BE NONDISCRIMINATORY.—

26 USC 129.

(A) Subsection (d) of section 129 (defining dependent care assistance program) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respec-

tively, and by inserting after paragraph (1) the following new paragraph:

“(2) **DISCRIMINATION.**—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, owners, or highly compensated, or their dependents.”

(B) Paragraph (3) of section 129(d) (as redesignated by subparagraph (A)) is amended by striking out “employees who are officers, owners, or highly compensated, or their dependents” and inserting in lieu thereof “employees described in paragraph (2), or their dependents”.

95 Stat. 199.  
26 USC 129.

(C) Paragraph (1) of section 129(d) is amended by striking out “paragraphs (2) through (6)” and inserting in lieu thereof “paragraphs (2) through (7)”.

(2) **CLARIFICATION OF DEDUCTION TO EMPLOYER.**—Paragraph (7) of section 129(e) (relating to disallowance of excluded amounts as credit or deduction) is amended—

(A) by striking out “shall be allowed” and inserting in lieu thereof “shall be allowed to the employee”, and

(B) by striking out “excluded from income” and inserting in lieu thereof “excluded from the gross income of the employee”.

(f) **AMENDMENT RELATED TO SECTION 125.**—Paragraph (2) of section 222(c) (defining child with special needs) is amended to read as follows:

95 Stat. 201.  
26 USC 222.

“(2) **CHILD WITH SPECIAL NEEDS.**—The term ‘child with special needs’ means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.”

(g) **AMENDMENT RELATED TO SECTION 126.**—Paragraph (4) of section 483(g) (relating to nonresident alien individuals) is amended by striking out “This section” and inserting in lieu thereof “Paragraph (1)”.

95 Stat. 202.  
26 USC 483.

## SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE ACT.

(a) **AMENDMENTS RELATED TO SECTION 201.**—

95 Stat. 203.

(1) **APPLICATION OF SHORT TAXABLE YEAR RULE TO 15-YEAR REAL PROPERTY.**—Paragraph (5) of section 168(f) (relating to short taxable years) is amended by adding at the end thereof the following new sentence: “In the case of 15-year real property, the first sentence of this paragraph shall not apply to the taxable year in which the property is placed in service or disposed of.”

26 USC 168.

(2) **ADJUSTMENTS TO BASIS IN THE CASE OF CERTAIN TRANSFERS.**—Subparagraph (B) of section 168(d)(2) (relating to adjustment to basis) is amended by striking out “subsection (f)(7)” and inserting in lieu thereof “paragraph (7) or (10) of subsection (f)”.

(3) **CHANGES IN USE.**—Subsection (f) of section 168 (relating to special rules for application of section) is amended by adding at the end thereof the following new paragraph:

“(13) **CHANGES IN USE.**—The Secretary shall, by regulation, provide for the method of determining the deduction allowable under subsection (a) with respect to any property for any taxable year (and for succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.”

(4) **QUALIFIED COAL UTILIZATION PROPERTY.**—

26 USC 168.

(A) Paragraph (4) of section 168(h) (relating to qualified coal utilization property) is amended to read as follows:  
 “(4) **QUALIFIED COAL UTILIZATION PROPERTY.**—The term ‘10-year property’ includes qualified coal utilization property which would otherwise be 15-year public utility property.”

(B) The heading of subparagraph (A) of section 168(g)(8) is amended to read as follows:

“(A) **QUALIFIED COAL UTILIZATION PROPERTY.**—”

(C) The heading of subparagraph (B) of section 168(g)(8) is amended to read as follows:

“(B) **COAL UTILIZATION PROPERTY.**—”

(5) **CLARIFICATION OF APPLICABLE PERCENTAGE FOR YEAR REAL PROPERTY PLACED IN SERVICE.**—The third sentence of section 168(b)(2)(A) (relating to 15-year real property) is amended by striking out “For purposes of this subparagraph” and inserting in lieu thereof “In the case of 15-year real property”.

26 USC 751.

(6) **SECTION 1245 RECOVERY PROPERTY INCLUDED AS UNREALIZED RECEIVABLE.**—The second sentence of subsection (c) of section 751 (relating to unrealized receivables and inventory items) is amended by inserting “section 1245 recovery property (as defined in section 1245(a)(5)),” after “section 1245(a)(3)).”

26 USC 1250.

(7) **CLARIFICATION OF ADDITIONAL DEPRECIATION IN THE CASE OF RECOVERY PROPERTY.**—

(A) Subsection (b) of section 1250 (defining additional depreciation) is amended by adding at the end thereof the following new paragraph:

“(5) **METHOD OF COMPUTING STRAIGHT LINE ADJUSTMENTS.**—For purposes of paragraph (1), the depreciation adjustments which would have resulted for any taxable year under the straight line method shall be determined—

“(A) in the case of recovery property, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight line method for such year using the recovery period applicable to such property, and

“(B) in the case of any property which is not recovery property, if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value).”

(B) Paragraph (1) of section 1250(b) is amended by striking out the last sentence.

26 USC 168.

(8) **THEME PARKS, ETC.**—Paragraph (2) of section 168(c) (defining classes of recovery property) is amended by adding at the end thereof the following new subparagraph:

“(F) **SPECIAL RULE FOR THEME PARKS, ETC.**—For purposes of subparagraphs (C) and (D), a building (and its structural components) shall not be treated as having a present class life of 12.5 years or less by reason of any use other than the use for which such building was originally placed in service.”

*Ante*, p. 431.

(9) **ANTI-CHURNING PROVISIONS.**—Paragraph (4) of section 168(e) (relating to certain transactions in property placed in service before 1981), as amended by section 206(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(A) by adding at the end of subparagraph (D) thereof the following new sentence: “In the case of the acquisition of property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the



determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination occurs.”; and

(B) by adding at the end thereof the following new subparagraphs:

“(H) ACQUISITIONS BY REASON OF DEATH.—Subparagraphs (A) and (B) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

“(I) SECTION 1245 CLASS PROPERTY ACQUIRED INCIDENTAL TO ACQUISITION OF SECTION 1250 CLASS PROPERTY.—Under regulations prescribed by the Secretary, subparagraph (B) shall apply (and subparagraph (A) shall not apply) to section 1245 class property which is acquired incidental to the acquisition of section 1250 class property.”

(10)(A) Subparagraph (D) of section 168(f)(8) (relating to special rule for leases), as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982, is amended by adding at the end thereof the following new sentence: “Under regulations prescribed by the Secretary, public utility property shall not be treated as qualified leased property unless the requirements of rules similar to the rules of subsection (e)(3) of this section and section 46(f) are met with respect to such property.”

26 USC 168.

*Ante*, p. 324.

(B) The amendment made by subparagraph (A) shall apply with respect to property to which the provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982) apply.

26 USC 168 note.

(aa) AMENDMENT RELATED TO SECTION 202.—Subsection (d) of section 179 (relating to election to expense certain business assets) is amended by adding at the end thereof of the following new paragraph:

95 Stat. 219.

26 USC 179.

“(10) RECAPTURE IN CERTAIN CASES.—The Secretary shall, by regulations, provide for recapturing the benefit under any deduction allowable under subsection (a) with respect to any property which is not used predominantly in a trade or business at any time before the close of the second taxable year following the taxable year in which it is placed in service by the taxpayer.”

(b) AMENDMENTS RELATED TO SECTION 205.—

95 Stat. 223.

(1)(A) The next to the last sentence of section 57(a) is amended by striking out “and (12)” and inserting in lieu thereof “and (12)(A)”.

26 USC 57.

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 205(b) of the Economic Recovery Tax Act of 1981 but shall not apply to taxable years beginning after December 31, 1982.

26 USC 57 note.

(2) Paragraph (2) of section 58(f) is amended by striking out “the item of tax preference set forth in section 57(a)(2)” and inserting in lieu thereof “the items of tax preference set forth in paragraphs (2) and (12)(B) of section 57(a)”.

26 USC 58.

(3) Paragraph (12) of section 57(a) (defining items of tax preference) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) SUBPARAGRAPHS (A) AND (B) INAPPLICABLE WHERE LONGER RECOVERY PERIODS APPLY.—If, pursuant to section 168(b)(3) or 168(f)(2), the recovery period for any property is longer than the recovery period for such property set forth in subparagraph (A) or (B), subparagraph (A) or (B) (as the case may be) shall not apply to such property.”

26 USC 57.

(4) Subparagraph (A) of section 57(a)(12) is amended by striking out “under section 168(a)” and inserting in lieu thereof “under section 168(a) (or, in the case of property described in section 167(k), under section 167)”.

95 Stat. 224.

26 USC 1248.

(c) AMENDMENTS RELATED TO SECTION 206.—

(1) Paragraph (1) of section 1248(c) is amended by striking out “section 312(k)(3)” and inserting in lieu thereof “section 312(k)(4)”.

26 USC 562.

(2) Section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) is amended by adding at the end thereof the following new subsection:

“(e) SPECIAL RULES FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust, in determining the amount of dividends under section 316 for purposes of computing the dividends paid deduction, the earnings and profits of such trust for any taxable year beginning after December 31, 1980, shall be increased by the total amount of gain (if any) on the sale or exchange of real property by such trust during such taxable year.”

95 Stat. 225.

95 Stat. 226.

26 USC 168 note.

(d) AMENDMENTS RELATED TO SECTION 207.—

(1) Paragraph (1) of section 209(c) of the Economic Recovery Tax Act of 1981 (relating to effective date for carryover provisions) is amended by adding at the end thereof the following new subparagraph:

“(C) If any net operating loss for any taxable year ending on or before December 31, 1975, could be a net operating loss carryover to a taxable year ending in 1981 by reason of subclause (II) of section 172(b)(1)(E)(ii) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act and as modified by section 1(b) of Public Law 96-595), such net operating loss shall be a net operating loss carryover under section 172 of such Code to each of the 15 taxable years following the taxable year of such loss.”

26 USC 172 note.

26 USC 168 note.

(2) Subsection (c) of section 209 of the Economic Recovery Tax Act of 1981 is amended by adding at the end thereof the following new paragraph:

“(3) CARRYOVER MUST HAVE BEEN ALIVE IN 1981.—The amendments made by subsections (a), (b), and (c) of section 207 shall not apply to any amount which, under the law in effect on the day before the date of the enactment of this Act, could not be carried to a taxable year ending in 1981.”

26 USC 53.

(3) Paragraph (2) of section 207(c) of the Economic Recovery Tax Act of 1981 (relating to new employee credit) is amended by striking out “section 53(c)” and inserting in lieu thereof “section 53(b)”.

95 Stat. 227.

(e) AMENDMENTS RELATED TO SECTION 211.—

(1) APPLICABLE INVESTMENT TAX CREDIT PERCENTAGE FOR RECOVERY PROPERTY.—Paragraph (7) of section 46(c) (relating to applicable percentage for recovery property) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) in the case of property other than 3-year property (within the meaning of section 168(c)), 100 percent, and”, and

(B) by striking out “shall be treated as 5-year property” in the last sentence and inserting in lieu thereof “shall be treated as property which is not 3-year property”.

(2) PETROLEUM STORAGE FACILITIES.—

(A) Subparagraph (G) of section 48(a)(1) (defining section 38 property) is amended by inserting “(not including a building and its structural components)” after “storage facility”. 26 USC 48.

(B) Subparagraph (F) of section 1245(a)(3) (defining section 1245 property) is amended by inserting “(not including a building or its structural components)” after “storage facility”. 26 USC 1245.

(3) CLERICAL AMENDMENT.—

(A) Paragraph (2) of section 47(d) is amended— 26 USC 47.

(i) by striking out “section 48(c)(8)(D)” and inserting in lieu thereof “section 46(c)(8)(D)”, and

(ii) by striking out “section 48(c)(8)(B)” and inserting in lieu thereof “section 46(c)(8)(B)”.

(B) Subparagraph (A) of section 47(d)(3) is amended by striking out “section 46(c)(8)(E)” and inserting in lieu thereof “section 46(c)(8)(F)”.

(f) AMENDMENTS RELATED TO SECTION 212.—

95 Stat. 235.

(1) CLARIFICATION OF TRANSITIONAL RULE.—Subparagraph (B) of section 212(e)(2) of the Economic Recovery Tax Act of 1981 (relating to transitional rule for increase in investment tax credit for qualified rehabilitation expenditures) is amended to read as follows: 26 USC 46 note.

“(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).”

(2) DETERMINATION OF SUBSTANTIAL REHABILITATION.—Clause

(i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended by striking out “the 24-month period ending on the last day of the taxable year” and inserting in lieu thereof “the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year”. 26 USC 48.

(3) CLARIFICATION OF BASIS ADJUSTMENT.—Subparagraph (A) of section 48(g)(5) (relating to adjustments to basis) is amended—

(A) by striking out “a credit is allowed under this section” and inserting in lieu thereof “a credit is determined under section 46(a)(2)”, and

(B) by striking out “the credit so allowed” and inserting in lieu thereof “the credit so determined”.

(4) EXTENSION OF TIME TO MAKE ELECTION TO USE STRAIGHT LINE DEPRECIATION.—Subparagraph (B) of section 168(f)(4) (relating to election made on return) is amended to read as follows: 26 USC 168.

“(B) ELECTION MADE ON RETURN.—

“(i) IN GENERAL.—Except as provided in clause (ii), any election under this section shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year concerned.

“(ii) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any qualified rehabilitated

building (as defined in section 48(g)(1)), an election under subsection (b)(3) may be made at any time before the date 3 years after the building was placed in service."

(5) CLARIFICATION OF BUILDINGS ELIGIBLE FOR REHABILITATION CREDIT.—

26 USC 46.

(A) Subclause (II) of section 46(a)(2)(F)(iii) (defining 40-year building) is amended by striking out "any building" and inserting in lieu thereof "a qualified rehabilitated building".

(B) Subclause (III) of section 46(a)(2)(F)(iii) (defining certified historic structure) is amended by striking out "has the meaning given to such term by section 48(g)(3)" and inserting in lieu thereof "means a qualified rehabilitated building which meets the requirements of section 48(g)(3)".

26 USC 48.

(6) DEFINITION OF SUBSTANTIALLY REHABILITATED.—Clause (i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended—

(A) by striking out "property" the first 2 places it appears and inserting in lieu thereof "building (and its structural components)",

(B) by striking out "property" the third place it appears and inserting in lieu thereof "building", and

(C) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation."

26 USC 170.

(7) CROSS REFERENCE.—Clause (ii) of section 170(h)(4)(B) (defining certified historic structure) is amended by striking out "section 191(d)(2)" and inserting in lieu thereof "section 48(g)(3)(B)".

95 Stat. 240.

26 USC 48 note.

(g) AMENDMENT RELATED TO SECTION 213.—Subsection (b) of section 213 of the Economic Recovery Tax Act of 1981 (relating to investment tax credit for used property; increase in dollar limit) is amended by striking out "property placed in service" and inserting in lieu thereof "taxable years beginning".

95 Stat. 241.

26 USC 108.

(h) AMENDMENTS RELATED TO SECTION 221.—

(1) Subparagraph (B) of section 108(b)(2) (relating to certain credit carryovers) is amended by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and by inserting after clause (iv) the following new clause:

"(v) section 44F (relating to credit for increasing research activities)."

26 USC 44F.

(2) Effective only with respect to amounts paid or incurred after March 31, 1982, subparagraph (A) of section 44F(b)(2) is amended by adding at the end thereof the following:

"Clause (iii) shall not apply to any amount to the extent that the taxpayer (or any person with whom the taxpayer must aggregate expenditures under subsection (f)(1)) receives or accrues any amount from any other person for the right to use substantially identical personal property."

95 Stat. 246.

26 USC 381.

(3) The paragraph (28) of section 381(c) added by section 221 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (29).

95 Stat. 250.

(i) AMENDMENTS RELATED TO SECTION 234.—

(1) Subparagraph (B) of section 1371(g)(3) (defining qualified subchapter S trust) is amended to read as follows: 26 USC 1371.

“(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States, and”.

(2) Section 678 is amended by adding at the end thereof the following new subsection: 26 USC 678.

“(e) CROSS REFERENCE.—

“For provision under which beneficiary of trust is treated as owner of the portion of the trust which consists of stock in an electing small business corporation, see section 1361(d).”

(j) AMENDMENTS RELATED TO SECTION 251.—

95 Stat. 256.

(1) Paragraph (8) of section 422A(b) (defining incentive stock option) is amended by striking out “granted options” and inserting in lieu thereof “granted incentive stock options”. 26 USC 422A.

(2) Paragraph (1) of section 422A(c) (relating to exercise of option where price is less than value of stock) is amended—

(A) by adding at the end thereof the following new sentence: “To the extent provided in regulations by the Secretary, a similar rule shall apply for purposes of paragraph (8) of subsection (b) and paragraph (4) of this subsection.”, and

(B) by striking out the paragraph heading and inserting in lieu thereof the following:

“(1) GOOD FAITH EFFORTS TO VALUE STOCK.—”

(3) Subparagraph (A) of section 422A(c)(2) (relating to certain disqualified dispositions where amount realized is less than value at exercise) is amended by striking out “the 2-year period” and inserting in lieu thereof “either of the periods”.

(4) Clause (ii) of section 422A(c)(4)(A) (relating to carryover of unused limit) is amended by striking out “granted options” and inserting in lieu thereof “granted incentive stock options”.

(5) Subsection (j) of section 425 (relating to cross references) is amended by inserting “an incentive stock option,” after “qualified stock option,”. 26 USC 425.

(6) Effective only with respect to transfers after March 15, 1982—

(A) subsection (c) of section 425 (defining disposition) is amended by adding at the end thereof the following new paragraph:

“(3) SPECIAL RULE WHERE INCENTIVE STOCK IS ACQUIRED THROUGH USE OF OTHER STATUTORY OPTION STOCK.—

“(A) NONRECOGNITION SECTIONS NOT TO APPLY.—If—

“(i) there is a transfer of statutory option stock in connection with the exercise of any incentive stock option, and

“(ii) the applicable holding period requirements (under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)) are not met before such transfer,

then no section referred to in subparagraph (B) of paragraph (1) shall apply to such transfer.

“(B) STATUTORY OPTION STOCK.—For purpose of subparagraph (A), the term ‘statutory option stock’ means any stock acquired through the exercise of a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option.”, and

26 USC 425.

(B) paragraph (1) of section 425(c) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

95 Stat. 260.

26 USC 83.

**(k) AMENDMENT RELATED TO SECTION 252.—**

(1) Paragraph (3) of section 83(c) (relating to sales which may give rise to suit under section 16(b) of the Securities Exchange Act) is amended by striking out "Securities and Exchange Act of 1934" each place it appears and inserting in lieu thereof "Securities Exchange Act of 1934".

26 USC 83 note.

(2) Subsection (c) of section 252 of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out "taxable years ending after December 31, 1981" and inserting in lieu thereof "transfers after December 31, 1981".

95 Stat. 260.

**(l) AMENDMENTS RELATED TO SECTION 261.—**

(1) CLARIFICATION OF DEFINITION OF YOUTH PARTICIPATING IN QUALIFIED COOPERATIVE EDUCATION PROGRAM.—Subparagraph (D) of section 51(d)(8) (defining wages) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "clauses (i), (ii), and (iii) of subparagraph (A)".

26 USC 51.

(2) CLARIFICATION OF EFFECTIVE DATE FOR ELIGIBLE WORK INCENTIVE EMPLOYEES.—Subparagraph (B) of section 261(g)(1) of the Economic Recovery Tax Act of 1981 (relating to eligible work incentive employees) is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".

26 USC 51 note.

(3) DEFINITION OF ELIGIBLE WORK INCENTIVE EMPLOYEES.—Subparagraph (B) of section 51(d)(9) (defining eligible work incentive employees) is amended by striking out "section 432(b)(1)" and inserting in lieu thereof "section 432(b)(1) or 445".

(4) PERIOD DURING WHICH LOW-INCOME DETERMINATION IS MADE.—Effective with respect to certifications made after the date of the enactment of this Act with respect to individuals beginning work for an employer after May 11, 1982, paragraph (11) of section 51(d) (defining members of an economically disadvantaged family) is amended by striking out "the month in which such determination occurs" and inserting in lieu thereof "the earlier of the month in which such determination occurs or the month in which the hiring date occurs".

95 Stat. 264.

26 USC 809.

**(m) AMENDMENTS RELATED TO SECTION 263.—**

(1) Subparagraph (A) of section 809(e)(3) (relating to charitable, etc., contributions and gifts) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

26 USC 545, 556.

(2) Sections 545(b)(2) and 556(b)(2) are each amended by striking out "5-percent" and inserting in lieu thereof "10-percent".

26 USC 512.

(3) Paragraph (10) of section 512(b) (relating to modifications to unrelated business taxable income) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

95 Stat. 265.

26 USC 165 note.

**(n) AMENDMENT RELATED TO SECTION 266.—**Subsection (c) of section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authority) is amended by adding at the end thereof the following new paragraph:

"(3) SECTION 381 OF THE INTERNAL REVENUE CODE OF 1954 TO APPLY.—For purposes of section 381 of the Internal Revenue Code of 1954, any item described in this section shall be treated as an item described in subsection (c) of such section 381."

**SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE ACT.**

95 Stat. 267.

**(a) AMENDMENTS RELATED TO SECTION 301.—**

(1) Paragraph (4) of section 128(d) (relating to limitation for credit unions) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the amounts described in subparagraph (A) of paragraph (5) shall include amounts paid into credit union share accounts." 95 Stat. 267.  
26 USC 128.

(2) Paragraph (2) of section 584(c) (relating to dividends or interest received) is amended to read as follows: 26 USC 584.

"(2) DIVIDENDS OR INTEREST RECEIVED.—The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 or 128 applies shall be considered for purposes of such section as having been received by such participant."

(3) Paragraph (7) of section 643(a) (defining distributable net income) is amended to read as follows: 26 USC 643.

"(7) DIVIDENDS OR INTEREST.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain interest)."

(4) Paragraph (5) of section 702(a) (relating to income and credits of partner) is amended to read as follows: 26 USC 702.

"(5) dividends or interest with respect to which there is an exclusion under section 116 or 128, or a deduction under part VIII of subchapter B,"

(5) Subparagraph (A) of section 128(c)(2) (defining qualified institution) is amended— 26 USC 128.

(A) by striking out "or" at the end of clause (ii), and

(B) by inserting after clause (iii) the following new clause:

"(iv) a banking facility (whether or not insured under Federal or State law) which is operated under a cost plus agreement with the Department of Defense for members of the Armed Forces of the United States serving outside the United States and their dependents, or".

(b) AMENDMENT RELATED TO SECTION 302.—Subsection (c) of section 128 (as amended by section 302(a) of the Economic Recovery Tax Act of 1981) is amended by adding at the end thereof the following new paragraph: 95 Stat. 270.  
26 USC 128.

"(3) LIMITATION ON QUALIFIED INTEREST EXPENSES, ETC.—

"(A) LIMITATION.—The amount of the qualified interest expense of any taxpayer for any taxable year shall not exceed such taxpayer's excess itemized deductions (as defined in section 63(c)).

"(B) COORDINATION WITH OTHER PROVISIONS.—For purposes of sections 37, 43, 85, 105(d), 165(c)(3), 170(b), and 213, adjusted gross income shall be determined without regard to the exclusion provided by this section."

(c) AMENDMENTS RELATED TO SECTION 311.—

95 Stat. 274.

(1) LIMITATION ON DEDUCTION FOR SPOUSE.—Subparagraph (B) of section 219(c)(2) (relating to limitation) is amended to read as follows: 26 USC 219.

"(B) the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))."

26 USC 219. (2) CLARIFICATION OF AGE 70½ RULE.—Paragraph (1) of section 219(d) (relating to individuals who have attained age 70½) is amended to read as follows:

“(1) BENEFICIARY MUST BE UNDER AGE 70½.—No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual’s taxable year for which the contribution was made.”

(3) DEFINITION OF QUALIFIED EMPLOYER PLAN.—

26 USC 72. (A) Paragraph (3) of section 219(e) (defining qualified employer plan) is amended by inserting “and” at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(B)(i) Paragraph (3) of section 72(p) (defining qualified employer plan, etc.) is amended by striking out “without regard to subparagraph (D) thereof”.

Effective date.  
26 USC 72 note.

(ii) The amendment made by clause (i) shall take effect as if the matter struck out had never been included in such paragraph.

(4) CLARIFICATION OF DEFINITION OF COMPENSATION.—Paragraph (1) of section 219(f) (defining compensation) is amended to read as follows:

“(1) COMPENSATION.—For purposes of this section, the term ‘compensation’ includes earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62. The term ‘compensation’ does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation.”

(5) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—Subparagraph (B) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out “the contribution is made” and inserting in lieu thereof “the contribution is made on account of the taxable year which includes such last day and”.

(6) CLARIFICATION OF ADDITIONAL TAX WHERE AMOUNTS RECEIVED BEFORE AGE 59½.—Subparagraph (A) of section 72(o)(2) (relating to additional tax if amount received before age 59½) is amended by striking out “to which the employee made one or more deductible employee contributions”.

26 USC 402.

(7) 10-YEAR AVERAGING AND CAPITAL GAINS PROVISIONS.—The last sentence of subparagraph (A) of section 402(e)(4) (defining lump sum distribution) is amended by striking out “this section and section 403” and inserting in lieu thereof “this subsection, subsection (a)(2) of this section, and subsection (a)(2) of section 403”.

(8) ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.—

(A) Subparagraph (D) of section 402(a)(5) (relating to rollover amounts) is amended by adding at the end thereof the following new clause:

“(v) ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.—In the case of any qualifying rollover distribution described in subclause (III) of clause (i), clause (i) of subparagraph (A) shall be applied by substituting ‘any portion of the balance’ for ‘the balance’.”



(B) Subparagraph (C) of section 403(b)(8) (relating to rollover amounts) is amended by striking out “subparagraphs (B), (C),” and inserting in lieu thereof “subparagraphs (B), (C), (D)(v).” 26 USC 403.

(9) ESTATE TAX EXCLUSION.—

(A) Paragraph (1) of section 2039(f) is amended to read as follows: 26 USC 2039.

“(1) IN GENERAL.—An amount is described in this subsection if—

“(A) it is a lump sum distribution described in section 402(e)(4) (determined without regard to the third sentence of section 402(e)(4)(A)), or

“(B) it is an amount attributable to accumulated deductible employee contributions (as defined in section 72(o)(5)(B)) in any plan taken into account for purposes of determining whether the distribution described in subparagraph (A) qualifies as a lump sum distribution.”

(B) Paragraph (2) of section 2039(f) is amended by striking out “A lump sum distribution” and inserting in lieu thereof “An amount”.

(10) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS BY OWNER-EMPLOYEES PERMITTED.—

(A) The second sentence of section 401(d)(5) is amended to read as follows: “Subparagraphs (A) and (B) shall not apply to contributions described in subsection (e), and shall not apply to any deductible employee contribution (as defined in section 72(o)(5)).” 26 USC 401.

(B) Paragraph (2) of section 4972(b) (relating to contributions by owner-employees) is amended by adding at the end thereof the following new sentence: “No contribution by an owner-employee which is a deductible employee contribution (as defined in section 72(o)(5)) shall be taken into account under this paragraph.” 26 USC 4972.

(11) EFFECTIVE DATE FOR ESTATE AND GIFT TAX PROVISIONS.— Subsection (i) of section 311 of the Economic Recovery Tax Act of 1981 (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 26 USC 219 note.  
95 Stat. 274.

“(5) ESTATE AND GIFT TAX PROVISIONS.—

“(A) ESTATE TAX.—The amendments made by subsections (d)(1) and (h)(4) shall apply to the estates of decedents dying after December 31, 1981.

“(B) GIFT TAX.—The amendments made by subsections (d)(2) and (h)(5) shall apply to transfers after December 31, 1981.”

(12) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 219(b)(2) is amended by striking out “paragraph (1)” and inserting in lieu thereof “paragraph (1)”. 26 USC 219.

(B) Subparagraph (D) of section 3401(a)(12) is amended by striking out “section 219(a)” and inserting in lieu thereof “section 219”. 26 USC 3401.

(C) Subsection (d) of section 6047 is amended by striking out “section 219(a)” and inserting in lieu thereof “section 219”. 26 USC 6047.

(D) Paragraph (2) of section 311(c) of the Economic Recovery Tax Act of 1981 is amended to read as follows: 26 USC 402.

“(2) Subparagraph (J) of section 402(e)(4) (relating to tax on lump sum distribution) is amended by adding at the end thereof the following new sentence: ‘This subparagraph shall not apply to distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5)).’ ”

95 Stat. 283.

**(d) AMENDMENTS RELATED TO SECTION 312.—****(1) SIMPLIFIED EMPLOYEE PENSIONS.—**

26 USC 408.

(A) Clause (ii) of section 408(k)(3)(C) (relating to uniform relationships of contributions) is amended by striking out “on behalf of each employee” and inserting in lieu thereof “on behalf of each employee (other than an employee within the meaning of section 401(c)(1))”.

(B) Subsection (j) of section 408 is amended by striking out “\$15,000” and inserting in lieu thereof “\$17,000”.

26 USC 401.

**(2) CONFORMING AMENDMENT.—**The last sentence of section 401(j)(3) is amended—

(A) by striking out “subsection (j)(2)” and inserting in lieu thereof “paragraph (2)”, and

(B) by inserting “with respect only to such change” after “participation”.

26 USC 72 note.

**(3) CLARIFICATION OF EFFECTIVE DATE.—**Paragraph (1) of section 312(f) of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out “plans which include employees within the meaning of section 401(c)(1) with respect to”.

95 Stat. 286.

**(e) AMENDMENTS RELATED TO SECTION 314.—**

26 USC 408.

(1) Paragraph (1) of section 314(b) of the Economic Recovery Tax Act of 1981 is amended by striking out “by redesignating subsection (n) as subsection (o) and by inserting after subsection (m)” and inserting in lieu thereof “by redesignating subsection (m) as subsection (n) and by inserting after subsection (l)”.

26 USC 408.

(2) Section 408 is amended by redesignating the subsection added by section 314(b)(1) of the Economic Recovery Tax Act of 1981 as subsection (m).

95 Stat. 287.

**(f) AMENDMENTS RELATED TO SECTION 321.—**

26 USC 305.

(1) Subparagraph (A) of section 305(e)(3) (defining qualified public utility) is amended to read as follows:

“(A) **IN GENERAL.**—For purposes of this subsection, the term ‘qualified public utility’ means, for any taxable year of the corporation, a domestic corporation which, for the 10-year period ending on the day before the beginning of the taxable year, placed in service qualified long-life public utility property having a cost equal to at least 60 percent of the aggregate cost of all tangible property described in subparagraph (A) or (B) of section 1245(a)(3) placed in service by the corporation during such period.”

(2) Clause (ii) of section 305(e)(3)(C) is amended to read as follows:

“(ii) **QUALIFIED LONG-LIFE PUBLIC UTILITY PROPERTY.**—The term ‘qualified long-life public utility property’ means any tangible property which—

“(I) is described in subparagraph (A) or (B) of section 1245(a)(3),

“(II) has a present class life (as defined in section 168(g)(2)) of more than 18 years, and

“(III) is public utility property (within the meaning of section 167(l)(3)(A)).”

**(g) AMENDMENTS RELATED TO SECTION 331.—**

95 Stat. 289.

(1) **CERTAIN REGULATED COMPANIES.**—Paragraph (3) of section 44G(b) (relating to certain regulated companies) is amended—

26 USC 44G.

(A) by striking out “No credit” and inserting in lieu thereof “No credit attributable to compensation taken into account for the ratemaking purposes involved”, and

(B) by adding at the end thereof the following new sentence:

“Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.”

**(2) CONFORMING AMENDMENTS.—**

(A) Paragraph (21) of section 401(a) is amended by striking out “which would be allowable” and all that follows and inserting in lieu thereof the following:

26 USC 401.

“which would be allowable—

“(A) under section 46(a) if the employer made the transfer described in section 48(n)(1), or

“(B) under section 44G if the employer made the transfer described in section 44G(c)(1)(B).”

(B) Paragraph (4) of section 331(c) of the Economic Recovery Tax Act of 1981 is amended by striking out “section 6699” and inserting in lieu thereof “section 6699(c)”.

26 USC 6699.

(C) Clause (ii) of section 6699(c)(2)(A) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “clause (i)”.

26 USC 6699.

(D) Clause (ii) of section 6699(c)(2)(B) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “clause (i)”.

(E) Paragraph (4) of section 55(c) is amended by striking out “44G(b)(1).”

26 USC 55.

(F) The paragraph (29) of section 381(c) added by section 331 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (30).

26 USC 381.

(h) **AMENDMENT RELATED TO SECTION 334.**—The last sentence of section 409A(h)(2) is amended by striking out “the requirements of section 401(a)” and inserting in lieu thereof “the requirements of this subsection or of section 401(a)”.

95 Stat. 297.

26 USC 409A.

(i) **AMENDMENT RELATED TO SECTION 337.**—Paragraph (2) of section 409A(d) is amended to read as follows:

95 Stat. 298.

“(2) a transfer of a participant to the employment of an acquiring employer from the employment of the selling corporation in the case of a sale to the acquiring corporation of substantially all of the assets used by the selling corporation in a trade or business conducted by the selling corporation, or”.

**SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE ACT.****(a) AMENDMENTS RELATED TO SECTION 403.—**

95 Stat. 301.

**(1) PROPERTY TREATED AS HAVING PASSED FROM SPOUSE.—**

(A) Subsection (b) of section 1014 (relating to basis of property acquired from decedent) is amended by adding at the end thereof the following new paragraph:

26 USC 1014.

“(10) Property includible in the gross estate of the decedent under section 2044 (relating to certain property for which marital deduction was previously allowed). In any such case, the last 3 sentences of paragraph (9) shall apply as if such property were described in the first sentence of paragraph (9).”

26 USC 2044.

(B) Section 2044 (relating to certain property for which marital deduction was previously allowed) is amended by adding at the end thereof the following new subsection:

“(c) **PROPERTY TREATED AS HAVING PASSED FROM DECEDENT.**—For purposes of this chapter and chapter 13, property includible in the gross estate of the decedent under subsection (a) shall be treated as property passing from the decedent.”

(2) **DENIAL OF DOUBLE DEDUCTION.**—

26 USC 2056.

(A) Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end thereof the following new paragraph:

“(9) **DENIAL OF DOUBLE DEDUCTION.**—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same decedent.”

26 USC 2523.

(B) Section 2523 (relating to gift to spouse) is amended by adding at the end thereof the following new subsection:

“(h) **DENIAL OF DOUBLE DEDUCTION.**—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same donor.”

(3) **DISPOSITIONS OF CERTAIN LIFE ESTATES.**—

26 USC 2519.

(A) Subsection (a) of section 2519 (relating to dispositions of certain life estates) is amended to read as follows:

“(a) **GENERAL RULE.**—For purposes of this chapter and chapter 11, any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of all interests in such property other than the qualifying income interest.”

(B) Clauses (i) and (ii) of section 403(d)(3)(B) of the Economic Recovery Tax Act of 1981 are each amended by striking out “chapter 11” and inserting in lieu thereof “chapter 12”.

95 Stat. 301.

(4) **TIME FOR MAKING ELECTION.**—Paragraph (4) of section 2523(f) (relating to election with respect to life estate for donee spouse) is amended to read as follows:

“(4) **ELECTION.**—

“(A) **TIME AND MANNER.**—An election under this subsection with respect to any property shall be made on or before the first April 15th after the calendar year in which the interest was transferred and shall be made in such manner as the Secretary shall by regulations prescribe.

“(B) **ELECTION IRREVOCABLE.**—An election under this subsection, once made, shall be irrevocable.”

(5) **TREATMENT OF CERTAIN INTEREST RETAINED BY DONOR SPOUSE.**—Subsection (f) of section 2523 (relating to election with respect to life estate for donee spouse) is amended by adding at the end thereof the following new paragraph:

“(5) **TREATMENT OF INTEREST RETAINED BY DONOR SPOUSE.**—  
“(A) **IN GENERAL.**—In the case of any qualified terminable interest property—

“(i) such property shall not be includible in the gross estate of the donor spouse, and

“(ii) any subsequent transfer by the donor spouse of an interest in such property shall not be treated as a transfer for purposes of this chapter.

“(B) SUBPARAGRAPH (A) NOT TO APPLY AFTER TRANSFER BY DONEE SPOUSE.—Subparagraph (A) shall not apply with respect to any property after the donee spouse is treated as having transferred such property under section 2519, or such property is includible in the donee spouse's gross estate under section 2044.”

(6) AMENDMENT OF SECTION 2523(f).—Paragraph (3) of section 2523(f) (relating to certain rules made applicable) is amended by striking out “the rules of” and inserting in lieu thereof “rules similar to the rules of”. 26 USC 2523.

(7) CROSS REFERENCE.—Section 2519 is amended by adding at the end thereof the following new subsection: 26 USC 2519.

“(c) CROSS REFERENCE.—

“For right of recovery for gift tax in the case of property treated as transferred under this section, see section 2207A(b).”

(8) TREATMENT OF ANNUITIES.—Clause (ii) of section 2056(b)(7)(B) is amended by adding at the end thereof the following new sentence: “To the extent provided in regulations, an annuity shall be treated in a manner similar to an income interest in property (regardless of whether the property from which the annuity is payable can be separately identified).” 26 USC 2056.

(9) CLERICAL AMENDMENT.—Paragraph (2) of section 2035(b) is amended by striking out “section 6019(a)(2)” and inserting in lieu thereof “section 6019(2)”. 26 USC 2035.

(10) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (2) of section 403(e) of the Economic Recovery Tax Act of 1981 is amended by striking out “and paragraphs (2) and (3)(B) of subsection (d)” and inserting in lieu thereof “paragraphs (2) and (3)(B) of subsection (d), and paragraph (4)(A) of subsection (d) (to the extent related to the tax imposed by chapter 12 of the Internal Revenue Code of 1954)”. 26 USC 2056 note.

(b) AMENDMENTS RELATED TO SECTION 421.—

(1) TREATMENT OF CERTAIN SURVIVING SPOUSES.—Paragraph (5) of section 2032A(b) (relating to special rules for surviving spouses) is amended by adding at the end thereof the following new subparagraph: 26 USC 2501 et seq.  
95 Stat. 306.  
26 USC 2032A.

“(C) COORDINATION WITH PARAGRAPH (4).—In any case in which to do so will enable the requirements of paragraph (1)(C)(ii) to be met with respect to the surviving spouse, this subsection and subsection (c) shall be applied by taking into account any application of paragraph (4).”

(2) EXCHANGES OF QUALIFIED REAL PROPERTY.—

(A) Clause (ii) of section 2032A(i)(1)(B) (relating to exchanges where other property received) is amended by striking out “the other property” and inserting in lieu thereof “the qualified exchange property”.

(B) Paragraph (3) of section 2032A(i) is amended by striking out “subparagraph (A), (B), or (C)” and inserting in lieu thereof “subparagraph (A) or (B)”.

(3) TRANSFERS OF CERTAIN FARM, ETC., REAL PROPERTY.—

(A) Subsection (a) of section 1040 (relating to transfer of certain farm, etc., real property) is amended by striking out “such exchange” and inserting in lieu thereof “such transfer”. 26 USC 1040.

(B) Subsection (c) of section 1040 is amended—

(i) by striking out “an exchange” and inserting in lieu thereof “a transfer”;

(ii) by striking out “the exchange” each place it appears and inserting in lieu thereof “the transfer”, and

(iii) by striking out “EXCHANGE” in the subsection heading and inserting in lieu thereof “TRANSFER”.

26 USC 1223.

(C) Section 1223 (defining holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

“(12) If—

“(A) property is acquired by any person in a transfer to which section 1040 applies,

“(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent’s death, and

“(C) such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year.”

(4) CLARIFICATION OF EFFECTIVE DATES.—

95 Stat. 306.  
26 USC 2032A  
note.

(A) Subparagraph (A) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out “subsections (b)(1), (c)(2), (j)(1), and (j)(2)” and inserting in lieu thereof “subsections (b)(1), (j)(1), and (j)(2) and the provisions of subparagraph (A) of section 2032A(c)(7) of the Internal Revenue Code of 1954 (as added by subsection (c)(2))”.

(B) Subparagraph (B) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out the second sentence and inserting in lieu thereof the following: “If the estate of any decedent would not qualify under section 2032A of the Internal Revenue Code of 1954 but for the amendments described in subparagraph (A) and the time for making an election under section 2032A with respect to such estate would (but for this sentence) expire after July 28, 1980, the time for making such election shall not expire before the close of February 16, 1982.”

(C)(i) Subparagraph (C) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out “within 6 months after the date of the enactment of this Act” and inserting in lieu thereof “at any time before February 17, 1982”.

(ii) Subparagraph (D) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended—

(I) by striking out “within 6 months after such date of enactment” and inserting in lieu thereof “before February 17, 1982”, and

(II) by striking out “the date 6 months after such date of enactment” and inserting in lieu thereof “February 17, 1982”.

95 Stat. 314.  
26 USC 6166.

(c) AMENDMENTS RELATED TO SECTION 422.—

(1) Paragraph (3) of section 6166(b) (relating to farm houses and certain other structures taken into account) is amended by striking out “65-percent requirement” and inserting in lieu thereof “35-percent requirement”.

(2) Clauses (i) and (ii) of the first sentence of section 6166(g)(1)(B) (relating to disposition of interest; withdrawal of funds from business) are amended to read as follows: 26 USC 6166.

“(i) the redemption of such stock, and the withdrawal of money and other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and

“(ii) for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed.”

(d) AMENDMENTS RELATED TO SECTION 424.—

95 Stat. 317.

(1) COORDINATION WITH SECTION 6166 (a) (1).—

(A) IN GENERAL.—Subsection (d) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding at the end thereof the following new paragraph: 26 USC 2035.

“(4) COORDINATION OF 3-YEAR RULE WITH SECTION 6166 (a) (1).—An estate shall be treated as meeting the 35-percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).”

(B) CROSS REFERENCE.—Subsection (j) of section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

“(5) TRANSFERS WITHIN 3 YEARS OF DEATH.—

“For special rule for qualifying an estate under this section where property has been transferred within 3 years of decedent's death, see section 2035(d)(4).”

(C) CONFORMING AMENDMENT.—Paragraph (3) of section 2035(d) is amended by striking out subparagraph (C), by adding “and” at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(2) EXCEPTIONS FOR CERTAIN TRANSFERS.—Paragraph (2) of section 2035(d) (relating to exceptions for certain transfers) is amended—

(A) by inserting “of this subsection and paragraph (2) of subsection (b)” after “Paragraph (1)”, and

(B) by striking out “2041,”.

(3) ELECTION TO HAVE AMENDMENTS NOT APPLY.—

26 USC 2501  
note.

(A) In the case of any decedent—

(i) who dies before August 13, 1984, and

(ii) who made a gift (before August 13, 1981, and during the 3-year period ending on the date of the decedent's death) on which tax imposed by chapter 12 of the Internal Revenue Code of 1954 has been paid before April 16, 1982,

26 USC 2501 *et seq.*

such decedent's executor may make an election to have subtitle B of such Code (relating to estate and gift taxes) applied with respect to such decedent without regard to any of the amendments made by title IV of the Economic Recovery Tax Act of 1981. 26 USC 2001.

(B) An election under subparagraph (A) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) An election under subparagraph (A), once made, shall be irrevocable.

95 Stat. 318.  
26 USC 2518.

(e) AMENDMENT RELATED TO SECTION 426.—Paragraph (3) of section 2518(c) (relating to disclaimers) is amended by striking out “For purposes of subsection (a), a” and inserting in lieu thereof “A”.

**SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE ACT.**

95 Stat. 323.

**(a) AMENDMENTS RELATED TO SECTION 501.—**

26 USC 1092.

**(1) LOSS COMPUTED WITH RESPECT TO UNRECOGNIZED GAIN.—**

(A) IN GENERAL.—Subparagraph (A) of section 1092(a)(1) (relating to recognition of loss in case of straddles, etc.) is amended by striking out “unrealized gain” and inserting in lieu thereof “unrecognized gain”.

(B) UNRECOGNIZED GAIN DEFINED.—So much of paragraph (3) of section 1092(a) as precedes subparagraph (B) thereof is amended to read as follows:

“(3) UNRECOGNIZED GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘unrecognized gain’ means—

“(i) in the case of any position held by the taxpayer as of the close of the taxable year, the amount of gain which would be taken into account with respect to such position if such position were sold on the last business day of such taxable year at its fair market value, and

“(ii) in the case of any position with respect to which, as of the close of the taxable year, gain has been realized but not recognized, the amount of gain so realized.”

(C) REPORTING OF GAIN.—Subclauses (I) and (II) of section 1092(a)(3)(B)(i) (relating to reporting of gain) are amended to read as follows:

“(I) each position (whether or not part of a straddle) with respect to which, as of the close of the taxable year, there is unrecognized gain, and

“(II) the amount of such unrecognized gain.”

26 USC 6653.

**(D) CLERICAL AMENDMENTS.—**

(i) Section 6653 (relating to failure to pay tax) is amended by redesignating subsection (g) as subsection (f).

(ii) The subsection heading of subsection (f) of section 6653 (as redesignated by clause (i)) is amended by striking out “UNREALIZED” and inserting in lieu thereof “UNRECOGNIZED”.

(2) CLARIFICATION OF GENERAL RULE LIMITING RECOGNITION OF LOSS.—Subparagraph (A) of section 1092(a)(1) is amended by striking out “which—” and all that follows and inserting in lieu thereof the following: “which were offsetting positions with respect to 1 or more positions from which the loss arose.”

(3) COORDINATION WITH SECTION 1256.—Paragraph (4) of section 1092(d) (relating to special rule for regulated futures contracts) is amended to read as follows:

“(4) SPECIAL RULE FOR REGULATED FUTURES CONTRACTS.—In the case of a straddle at least 1 (but not all) of the positions of which are regulated futures contracts, the provisions of this section



shall apply to any regulated futures contract and any other position making up such straddle.”

(4) CLERICAL AMENDMENT.—Subparagraph (C) of section 1092(c)(2) (relating to offsetting positions) is amended by striking out “subsection (a)(3)(B)” and inserting in lieu thereof “subsection (a)(2)(B)”. 26 USC 1092.

(b) AMENDMENTS RELATED TO SECTION 502.—

95 Stat. 327.

(1) IN GENERAL.—Clause (ii) of section 263(g)(2)(A) (defining interest and carrying charges) is amended to read as follows: 26 USC 263.

“(ii) all other amounts (including charges for temporary use of the personal property in a short sale, or to insure, store, or transport the personal property) paid or incurred to carry the personal property, over”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property acquired, and positions established, by the taxpayer after September 22, 1982, in taxable years ending after such date. 26 USC 263 note.

(c) AMENDMENTS RELATED TO SECTION 503.—

95 Stat. 327.

(1) TRANSFERS OF RIGHTS AND OBLIGATIONS.—Subsection (c) of section 1256 (relating to regulated futures contracts marked to market) is amended to read as follows: 26 USC 1256.

“(c) TERMINATIONS, ETC.—

“(1) IN GENERAL.—The rules of paragraphs (1), (2), and (3) of subsection (a) shall also apply to the termination (or transfer) during the taxable year of the taxpayer’s obligation (or rights) with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise.

“(2) SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY ON PART OF STRADDLE.—If—

“(A) 2 or more regulated futures contracts are part of a straddle (as defined in section 1092(c)), and

“(B) the taxpayer takes delivery under any of such contracts,

then, for purposes of this section, each of the other such contracts shall be treated as terminated on the day on which the taxpayer took delivery.

“(3) FAIR MARKET VALUE TAKEN INTO ACCOUNT.—For purposes of this subsection, fair market value at the time of the termination (or transfer) shall be taken into account.”

(2) IDENTIFICATION OF MIXED STRADDLES.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by striking out “such position” and inserting in lieu thereof “the first regulated futures contract forming part of the straddle”.

(3) ACTIVE MANAGEMENT WITH RESPECT TO SYNDICATES.—Clause (v) of section 1256(e)(3)(C) is amended by inserting “(by regulations or otherwise)” after “determines”.

(4) HOLDING PERIOD.—Paragraph (8) of section 1223 (relating to holding period of property) is amended by inserting “(other than a commodity futures contract to which section 1256 applies)” after “commodity futures contract” the first place it appears. 26 USC 1223.

(5) FOREIGN CURRENCY AND CASH SETTLEMENT CONTRACTS MARKED TO MARKET.—

(A) CASH SETTLEMENT CONTRACTS.—Subsection (b) of section 1256 (defining regulated futures contract) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 1256.

(B) **FOREIGN CURRENCY CONTRACTS.**—Subsection (b) of section 1256 (as amended by subparagraph (A)) is amended by adding at the end thereof the following new sentence: “Such term includes any foreign currency contract.”

(C) **FOREIGN CURRENCY CONTRACT DEFINED.**—Section 1256 is amended by adding at the end thereof the following new subsection:

“(g) **FOREIGN CURRENCY CONTRACT DEFINED.**—

“(1) **FOREIGN CURRENCY CONTRACT.**—For purposes of this section, the term ‘foreign currency contract’ means a contract—

“(A) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

“(B) which is traded in the interbank market, and

“(C) which is entered into at arm’s length at a price determined by reference to the price in the interbank market.

Regulations.

“(2) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1), including regulations excluding from the application of paragraph (1) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.”

26 USC 1256  
note.

(D) **EFFECTIVE DATES.**—

(i) **IN GENERAL.**—Except as provided in clauses (ii) and (iii), the amendments made by subparagraphs (B) and (C) shall apply only with respect to contracts entered into after May 11, 1982.

(ii) **ELECTION BY TAXPAYER OF RETROACTIVE APPLICATION.**—

(I) **RETROACTIVE APPLICATION.**—If the taxpayer so elects, the amendments made by subparagraphs (B) and (C) shall apply as if included within the amendments made by title V of the Economic Recovery Tax Act of 1981.

95 Stat. 323.

(II) **ADDITIONAL CHOICES WITH RESPECT TO 1981.**—If the taxpayer held a foreign currency contract after December 31, 1980, and before June 24, 1981, and such taxpayer makes an election under subclause (I), such taxpayer may revoke any election made under section 508(c) or 509(a) of such Act, and may make an election under section 508(c) or 509(a) of such Act.

(III) **ADDITIONAL CHOICES APPLY TO ALL REGULATED FUTURES CONTRACTS.**—Except as provided in subclause (IV), in the case of any taxpayer who makes an election under subclause (I), any election under section 508(c) or 509(a) of such Act or any revocation of such an election shall apply to all regulated futures contracts (including foreign currency contracts).

(IV) **SECTION 509 (a) (3) AND (4) NOT TO APPLY TO FOREIGN CURRENCY CONTRACTS.**—Paragraphs (3) and (4) of section 509(a) of such Act shall not apply to any foreign currency contract.

(V) **TIME FOR MAKING ELECTION OR REVOCATION.**—Any election under subclause (I) and any election or revocation under subclause (II) may be made only within the 90-day period beginning on the

date of the enactment of this Act. Any such action, once taken, shall be irrevocable.

(VI) DEFINITIONS.—For purposes of this clause, the terms “regulated futures contract” and “foreign currency contract” have the same respective meanings as when used in section 1256 of the Internal Revenue Code of 1954 (as amended by this Act).

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD DURING TAXABLE YEARS ENDING AFTER MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) applied to all positions held in taxable years ending after May 11, 1982, except that the provisions of section 509(a) (3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

(6) CLARIFICATION OF EXTENSION.—Paragraph (3) of section 509(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

26 USC 1256  
note.

“(3) the fair market value on the last business day of the preceding taxable year for each regulated futures contract described in paragraph (2), and”.

(7) CLERICAL AMENDMENT.—Subparagraph (A) of section 1212(c)(4) (defining net commodities futures loss) is amended by striking out “and positions to which section 1256 applies”.

26 USC 1212.

(d) AMENDMENT RELATED TO SECTION 506.—

95 Stat. 332.

(1) REQUIREMENT THAT OPTIONS BE DESIGNATED AS HELD FOR INVESTMENT.—Section 1236 (relating to dealers in securities) is amended by adding at the end thereof the following new subsection:

26 USC 1236.

“(e) SPECIAL RULE FOR OPTIONS.—For purposes of subsection (a), any security acquired by a dealer pursuant to an option held by such dealer may be treated as held for investment only if the dealer, before the close of the day on which the option was acquired, clearly identified the option on his records as held for investment. For purposes of the preceding sentence, the term ‘option’ includes the right to subscribe to or purchase any security.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to securities acquired after September 22, 1982, in taxable years ending after such date.

26 USC 1236  
note.

(e) AMENDMENT RELATED TO SECTION 507.—Section 1234A (relating to gains or losses from certain terminations) is amended to read as follows:

95 Stat. 333.  
26 USC 1234A.

“SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

“Gain or loss attributable to the cancellation, lapse, expiration, or other termination of—

“(1) a right or obligation with respect to personal property (as defined in section 1092(d)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer, or

“(2) a regulated futures contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer,

shall be treated as gain or loss from the sale of a capital asset.”

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE ACT.

(a) AMENDMENTS RELATED TO SECTION 601.—

95 Stat. 335.

(1) PRODUCTION FROM TRANSFERRED PROPERTY.—Paragraph (3) of section 6429(d) (relating to production from transferred property) is amended by striking out subparagraph (D).

26 USC 6429.

26 USC 4994. (2) **ALLOCATION OF ROYALTY LIMIT.**—Subparagraph (B) of section 4994(f)(3) (relating to allocation of royalty limit) is amended by striking out “subsection (b)(1)” and inserting in lieu thereof “paragraph (2)(A)”.

26 USC 6429. (3) **QUALIFIED FAMILY CORPORATION DEFINED.**—Subparagraph (B) of section 6429(d)(4) is amended by striking out “other than royalty interests described in paragraph (2)(A)” and inserting in lieu thereof “other than royalty interests from which there is qualified royalty production determined by treating such corporation as a qualified royalty owner”.

(4) **CREDIT OR REFUND FOR BENEFICIARIES OF TRUST OWNING ROYALTY INTERESTS.**—

(A) **IN GENERAL.**—Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

26 USC 6430. **“SEC. 6430. CREDIT OR REFUND OF WINDFALL PROFIT TAXES TO CERTAIN TRUST BENEFICIARIES.**

“(a) **GENERAL RULE.**—That portion of the tax imposed by section 4986 (relating to crude oil windfall profit tax) which is paid by any trust with respect to any qualified beneficiary’s allocable trust production shall be treated as an overpayment of such tax by such qualified beneficiary. Any such overpayment shall be credited against the tax imposed by section 4986 or refunded to such qualified beneficiary.

“(b) **COORDINATION WITH ROYALTY EXEMPTION.**—

“(1) **IN GENERAL.**—If the aggregate amount of the allocable trust production of any qualified beneficiary for any calendar year exceeds such beneficiary’s unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under subsection (a) with respect to such qualified beneficiary shall be reduced by an amount which bears the same ratio to the amount which (but for this paragraph) would be so treated as—

“(A) the amount of such excess, bears to

“(B) the aggregate amount of such allocable trust production.

“(2) **UNUSED EXEMPT ROYALTY LIMIT.**—The unused exempt royalty limit of any qualified beneficiary for any calendar year is the excess of—

“(A) the number of days in such calendar year, multiplied by the limitation in barrels determined under the table contained in section 4994(f)(2)(A)(ii), over

“(B) the amount of exempt royalty oil (within the meaning of section 4994(f))—

“(i) with respect to which such qualified beneficiary is the producer, and

“(ii) which is removed from the premises during such calendar year.

“(3) **ALLOCATION.**—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply to the amount determined under paragraph (2)(A).

“(c) **ALLOCABLE TRUST PRODUCTION.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘allocable trust production’ means, with respect to any qualified beneficiary, the qualified royalty production of any trust which—

“(A) is removed from the premises during the calendar year, and

“(B) is allocated to such qualified beneficiary under paragraph (2).

“(2) ALLOCATION OF PRODUCTION.—

“(A) IN GENERAL.—The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries as follows:

“(i) there shall be allocated to the trust an amount of production based on the amount of any reserve for depletion for the calendar year with respect to qualified royalty production, and

“(ii) production not allocated under clause (i) shall be allocated between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year.

“(B) DEFINITION AND SPECIAL RULE.—For purposes of this paragraph—

“(i) ADJUSTED DISTRIBUTABLE NET INCOME.—The term ‘adjusted distributable net income’ means distributable net income (as defined in section 643) for the calendar year reduced by the excess (if any) of—

“(I) any reserve for depletion for such year with respect to qualified royalty production, over

“(II) the amount allowable as a deduction for depletion to the trust for such year with respect to qualified royalty production.

“(ii) ALLOCATION PRO RATA FROM EACH UNIT OF PRODUCTION.—Allocations under subparagraph (A) shall be treated as made pro rata from each unit of the qualified royalty production.

“(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

“(A) IN GENERAL.—The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer which—

“(i) is described in section 613A(c)(9)(A), and

“(ii) is not described in section 613A(c)(9)(B).

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by subsection (b)(3) to share the amount determined under subsection (b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED BENEFICIARY.—The term ‘qualified beneficiary’ means any individual or estate which is a beneficiary of any trust which is a producer.

“(2) QUALIFIED ROYALTY PRODUCTION.—The term ‘qualified royalty production’ means, with respect to any person, taxable crude oil (within the meaning of section 4991(a)) which is attributable to an economic interest of such person other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributa-

ble to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

“(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

“(B) is not created pursuant to a binding contract entered into before June 10, 1981.

“(3) PRODUCER.—The term ‘producer’ has the meaning given to such term by section 4996(a)(1).

Regulations.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

(B) ALLOCATION OF LIMITATION BETWEEN EXEMPT ROYALTY OIL AND ALLOCABLE TRUST PRODUCTION.—Paragraph (2) of section 4994(f) (relating to royalty limit) is amended—

26 USC 4994.

(i) by striking out “A qualified” in subparagraph (A) and inserting in lieu thereof “Except as provided in subparagraph (C), a qualified”, and

(ii) by adding at the end thereof the following new subparagraph:

“(C) ELECTION TO INCREASE SECTION 6430 ROYALTY CREDIT BY REDUCING EXEMPTION UNDER THIS SUBSECTION.—Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430(d)(1)) for any quarter may elect (at such time and in such manner as the Secretary may prescribe by regulations) to reduce by any amount the qualified royalty owner’s royalty limit determined under subparagraph (A) for such quarter (after the application of paragraph (3)(B)).”

26 USC 6654.

(C) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6654(g)(3) (relating to estimated tax computed after application of credits against tax) is amended by inserting “or 6430” after “section 6429”.

(D) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

“Sec. 6430. Credit or refund of windfall profit taxes to certain trust beneficiaries.”

26 USC 6430  
note.

(E) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to calendar years beginning after December 31, 1981.

(ii) ESTIMATED TAX.—The amendment made by subparagraph (C) shall take effect on January 1, 1982.

(b) AMENDMENT RELATED TO SECTION 603.—Paragraph (2) of section 4994(g) (relating to limitations for certain transferred properties) is amended by striking out “owned by a person other than an independent producer (within the meaning of section 4992(b)(1)).” and inserting in lieu thereof “owned by any person (other than the producer) who during the period of ownership after such date was not an independent producer (within the meaning of section 4992(b)(1)). The preceding sentence shall not apply to property so owned by any person if, at the time of transfer of such property by such person, such property was not a proven property (within the meaning of section 613A(c)(9)(A)).”

## SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

## (a) AMENDMENTS RELATED TO SECTION 722.—

95 Stat. 341.

(1) AGGREGATION OF PROPERTIES.—Subsection (d) of section 6659 (relating to underpayment must be at least \$1,000) is amended by striking out “the valuation overstatement” and inserting in lieu thereof “valuation overstatements”.

26 USC 6659.

(2) CLARIFICATION OF DEFINITION OF VALUATION OVERSTATEMENT.—Paragraph (1) of section 6659(c) (defining valuation overstatement) is amended by striking out “exceeds 150 percent of” and inserting in lieu thereof “is 150 percent or more of”.

(3) CLARIFICATION OF INCREASE IN NEGLIGENCE PENALTY.—Subparagraph (B) of section 6653(a)(2) (relating to additional amount for portion attributable to negligence, etc.) is amended by inserting “(or, if earlier, the date of the payment of the tax)” after “assessment of the tax”.

26 USC 6653.

## (b) AMENDMENTS RELATED TO SECTION 724.—Subsection (c) of section 5761 (relating to application of section 6659) is amended—

95 Stat. 344.

26 USC 5761.

(1) by striking out “section 6659(a)” and inserting in lieu thereof “section 6660(a)”, and

(2) by striking out “Section 6659” in the heading and inserting in lieu thereof “Section 6660”.

## (c) AMENDMENT RELATING TO SECTION 725.—

95 Stat. 345.

26 USC 6654.

(1) Paragraph (1) of section 6654(f) (relating to exception to penalty for failure to pay estimated tax where tax is small amount) is amended by striking out “is less than” and inserting in lieu thereof “, reduced by the credit allowable under section 31, is less than”.

(2) Subsection (a) of section 6015 (relating to requirement of declaration of estimated income tax by individuals) is amended by striking out “entitled under subsection (b)” each place it appears and inserting in lieu thereof “entitled under subsection (c)”.

26 USC 6015.

## SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 802.—Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal service plans) is amended by striking out “This section” and inserting in lieu thereof “This section and section 501(c)(20)”.

95 Stat. 349.

26 USC 120.

(b) AMENDMENT RELATED TO SECTION 823.—Subparagraph (A) of section 4942(j)(3) is amended by striking out “and” at the end of clause (i) and inserting in lieu thereof “or”.

95 Stat. 351.

26 USC 4942.

## SEC. 109. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if it had been included in the provision of the Economic Recovery Tax Act of 1981 to which such amendment relates.

26 USC 1 note.

95 Stat. 172.

26 USC 1 note.

## TITLE II—AMENDMENTS RELATED TO CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

## SEC. 201. AMENDMENTS RELATED TO WINDFALL PROFIT TAX.

26 USC 1 note.

## (a) AMENDMENTS TO SECTION 4988.—

26 USC 4988.

26 USC 4988

(1) Paragraph (3) of section 4988(b) (defining taxable income from the property) is amended by striking out “purposes of paragraph (2)” and inserting in lieu thereof “purposes of this subsection”.

(2) Clause (ii) of section 4988(b)(3)(C) (relating to taxable income reduced by cost depletion) is amended by striking out “all taxable periods” and inserting in lieu thereof “all taxable years”.

26 USC 4989.

(b) AMENDMENT TO SECTION 4989.—Paragraph (3) of section 4989(b) (relating to inflation adjustment) is amended—

(1) by striking out “paragraphs (1) and (2)” and inserting in lieu thereof “paragraphs (1)(A) and (2)”, and

(2) by adding at the end thereof the following new sentence: “For purposes of applying paragraph (1)(B), the revision of the price deflator which is most consistent with the revision used for purposes of paragraph (1)(A) shall be used.”

26 USC 4991.

(c) AMENDMENT TO SECTION 4991.—Subparagraph (B) of section 4991(d)(1) (defining tier 2 oil) is amended by striking out “National Petroleum Reserve” and inserting in lieu thereof “Naval Petroleum Reserve”.

26 USC 4992.

(d) AMENDMENTS TO SECTION 4992.—

(1) Subsection (b) of section 4992 (defining independent producer) is amended to read as follows:

“(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘independent producer’ means, with respect to any quarter in any calendar year, any person other than a person to whom subsection (c) of section 613A does not apply for such calendar year by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

“(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A (d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied by substituting ‘calendar year’ for ‘taxable year’ each place it appears in such paragraphs.”

(2) Paragraph (2) of section 4992(c) (relating to allocation where production exceeds independent producer amount) is amended—

(A) by striking out “such person’s production for such quarter of domestic crude oil” and inserting in lieu thereof “such person’s qualified production of oil for such quarter”,

(B) by striking out “such person’s domestic crude oil” and inserting in lieu thereof “such person’s qualified production of oil”, and

(C) by striking out the last sentence.

(3) Clause (i) of section 4992(d)(3)(B) (relating to small producer transfer exemption) is amended by striking out “has the property” and inserting in lieu thereof “has the interest”.

26 USC 4993.

(e) AMENDMENT TO SECTION 4993.—Subparagraph (B) of section 4993(c)(2) (relating to requirements for qualified tertiary recovery project) is amended to read as follows:

“(B) the date on which the injection of liquids, gases, or other matter begins is after May 1979.”.

26 USC 4994.

(f) AMENDMENTS TO SECTION 4994.—

(1) Subparagraph (A) of section 4994(c)(2) (relating to refunds for tertiary projects of integrated producers) is amended by



striking out “the taxpayer” each place it appears and inserting in lieu thereof “the producer”.

(2)(A) Paragraph (1) of section 4994(e) (defining exempt Alaskan oil) is amended to read as follows: 26 USC 4994.

“(1) from a well located north of the Arctic Circle or from a reservoir from which oil has been produced in commercial quantities through such a well, or”.

(B) Paragraph (2) of section 4994(e) is amended by striking out “the divide of the Alaskan-Aleutian range” and inserting in lieu thereof “the divides of the Alaska and Aleutian ranges”.

(3)(A) Subparagraph (A) of section 4994(b)(1) (defining qualified charitable interest) is amended—

(i) by striking out “or” at the end of clause (ii),

(ii) by striking out “and” at the end of clause (iii) and inserting in lieu thereof “or”, and

(iii) by adding at the end thereof the following new clause:

“(iv) held by an organization described in section 509(a)(3) which is operated exclusively for the benefit of an organization described in—

“(I) clause (ii), or

“(II) section 170(b)(1)(A)(ii) which is also described in section 170(c)(2), and”.

(B) Subparagraph (B) of section 4994(b)(1) is amended by striking out “or (ii)” and inserting in lieu thereof “, (ii), or (iv)”.

(C) Paragraph (2) of section 4994(b) is amended—

(i) by striking out “clause (ii) or (iii)” and inserting in lieu thereof “clause (ii), (iii), or (iv)”,

(ii) by striking out “clause (i) or (ii)” each place it appears and inserting in lieu thereof “clause (i), (ii), or (iv)”, and

(iii) by inserting “, whichever is applicable,” after “paragraph (1)(A)” each place it appears.

(g) AMENDMENTS TO SECTION 4995.—

26 USC 4995.

(1) Subparagraph (A) of section 4995(a)(3) (relating to adjustments for withholding errors) is amended—

(A) by striking out “removed during any calendar year”, and

(B) by striking out “removed during the same calendar year”.

(2) Paragraph (3) of section 4995(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) Subparagraph (B) of section 4995(a)(4) (relating to time payment deemed made) is amended by striking out “The producer” and inserting in lieu thereof “For purposes of this chapter (and so much of subtitle F as relates to this chapter), the producer”.

(h) AMENDMENTS TO SECTION 4996.—

26 USC 4996.

(1)(A) Paragraph (1) of section 4996(a) (defining producer) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) NET PROFITS INTERESTS.—

“(i) IN GENERAL.—Except to the extent otherwise provided by regulations, in the case of any property, all cost recovery oil covered by a net profits agreement (within the meaning of subsection (h)) shall be treated

as produced by the parties to such agreement in proportion to their respective shares (determined after reduction for such cost recovery oil) of the production of the crude oil covered by such agreement.

“(ii) **CLAUSE (i) NOT TO APPLY BEFORE PAYOUT.**—In the case of any property, clause (i) shall only apply for—

“(I) the first taxable period in which, under the agreement with respect to such property, one or more persons receives a share described in subsection (h)(1)(B), and

“(II) all subsequent taxable periods to which such agreement applies.”.

(B) Subparagraph (A) of such paragraph (1) is amended by striking out “subparagraph (B)” and inserting in lieu thereof “subparagraphs (B) and (C)”.

26 USC 4996.

(C) Section 4996 (relating to other definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **TERMS USED IN SUBSECTION (a)(1)(B).**—For purposes of subsection (a)(1)(B) and this subsection—

“(1) **NET PROFITS AGREEMENT.**—The term ‘net profits agreement’ means an agreement entered into (or renewed) after March 31, 1982, and providing for sharing part or all of the production of crude oil from a property where—

“(A) 1 or more persons are to be reimbursed for qualified costs by the allocation of cost recovery oil, and

“(B) 1 or more persons are to receive a share of any production of crude oil from the property remaining after reduction for the cost recovery oil referred to in subparagraph (A).

“(2) **COST RECOVERY OIL DEFINED.**—The term ‘cost recovery oil’ means crude oil produced from the property which is allocated to a person as reimbursement for qualified costs paid or incurred with respect to the property. The Secretary shall by regulation prescribe rules for allocating the cost recovery oil to the oil produced from the property.

“(3) **QUALIFIED COSTS.**—The term ‘qualified costs’ means any amount paid or incurred for exploring for, or developing or producing, 1 or more oil or gas wells on the property.

“(4) **SCOPE OF AGREEMENT.**—A net profits agreement shall be treated as covering only shares of production of crude oil held by persons who hold economic interests in the property (determined without regard to subsection (a)(1)(B)).”

26 USC 4988.

(D) Subsection (b) of section 4988 (relating to net income limitation on windfall profit) is amended by adding at the end thereof the following new paragraph:

“(6) **COST RECOVERY OIL COVERED BY NET PROFITS AGREEMENT.**—For purposes of paragraph (2), if any person is treated under section 4996(a)(1)(B) as the producer of any portion of the cost recovery oil covered by a net profits agreement (within the meaning of section 4996(h))—

“(A) such person (and only such person) shall include in his gross income from the property the gross income from such portion, and

“(B) the qualified costs allocable to such portion shall be treated as paid or incurred by such person (and only by such person).”

(E) If 90 percent or more of the remaining production referred to in subparagraph (B) of section 4996(h)(1) of the Internal Revenue Code of 1954 is to be received by governmental entities, and organizations described in clause (i), (ii), or (iii) of section 4994(b)(1)(A) of such Code, which do not share in the costs referred to in subparagraph (A) of such section 4996(h)(1), then the requirement of paragraph (1) of section 4996(h) of such Code that the agreement be entered into (or renewed) after March 31, 1982, shall not apply. 26 USC 4996 note.

(2)(A) Paragraph (1) of section 4996(b) (defining crude oil) is amended by adding at the end thereof the following new sentence: “In the case of crude oil which is condensate recovered off the premises by mechanical separation, such crude oil shall be treated as removed from the premises on the date on which it is so recovered.” 26 USC 4996.

(B) Paragraph (3) of section 4996(b) (defining domestic) is amended by striking out “an oil well” and inserting in lieu thereof “a well”.

(i) AMENDMENTS RELATED TO SECTION 4997.— 26 USC 4997.

(1) IN GENERAL.—Subsection (a) of section 4997 (relating to records and information; regulations) is amended by striking out “such information” and inserting in lieu thereof “such statements and other information”.

(2) PENALTY FOR FAILURE TO MAKE A RETURN.—

(A) Subsection (a) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out “or” at the end of subparagraph (F) of paragraph (1), by adding “or” at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph: 26 USC 6652.

“(3) to make a return required by section 4997(a) (relating to information with respect to windfall profit tax on crude oil),”

(B) Subsection (a) of section 6652 is amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (2) or (3)”.

(3) PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.— Paragraph (3) of section 6678 (relating to failure to furnish certain statements) is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following: 26 USC 6678.

“(A) section 4997(a) (relating to statements with respect to windfall profit tax on crude oil),”.

(j) AMENDMENTS TO ESTIMATED TAX PROVISIONS.—

(1) Paragraph (3) of section 6015(d) (defining estimated tax in the case of an individual) is amended to read as follows: 26 USC 6015.

“(3) the amount which the individual estimates as the sum of—

“(A) any credits against tax provided by part IV of subchapter A of chapter 1, and

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986.” 26 USC 31.

26 USC 6154.

(2) Paragraph (2) of section 6154(c) (defining estimated tax in the case of a corporation) is amended to read as follows:

“(2) the amount which the corporation estimates as the sum of—

26 USC 31.

“(A) any credits against tax provided by part IV of subchapter A of chapter 1, and

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986.”

26 USC 6654.

(3) Subparagraph (B) of section 6654(g)(3) (defining tax) is amended to read as follows:

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

26 USC 6655.

(4) Subparagraph (B) of section 6655(e)(2) (defining tax) is amended to read as follows:

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

#### SEC. 202. MISCELLANEOUS PROVISIONS.

26 USC 44D.

(a) AMENDMENT TO SECTION 44D.—Subsection (f) of section 44D (relating to application of section) is amended by striking out “December 3, 1979” each place it appears and inserting in lieu thereof “December 31, 1979”.

26 USC 193.

(b) AMENDMENT TO SECTION 193.—Paragraph (1) of section 193(b) (defining qualified tertiary injectant expenses) is amended by striking out “during the taxable year”.

26 USC 48.

(c) AMENDMENT TO SECTION 223 OF THE ACT.—Paragraph (1) of section 223(a) of the Crude Oil Windfall Profit Tax Act of 1980 (relating to boilers fueled by petroleum coke or petroleum pitch) is amended by striking out “Paragraph (10)” and inserting in lieu thereof “Subparagraph (A) of paragraph (10)”.

26 USC 613A.

(d) AMENDMENTS TO SECTION 613A.—

(1) Subparagraph (E) of section 613A(c)(10) is amended by inserting “and, in the case of any property, also includes necessary production equipment for such property which is in place when the property is transferred” before the period at the end thereof.

(2) Paragraph (2) of section 613A(d) (relating to exclusion of retailers) is amended by inserting “(excluding bulk sales of aviation fuels to the Department of Defense)” after “any product derived from oil or natural gas” the first place it appears.

26 USC 44E note.

(e) AMENDMENT TO SECTION 232 OF THE ACT.—Subsection (h) of section 232 of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

“(4) ADDITION OF DENATURANTS.—Notwithstanding paragraph (1), the provisions of section 44E(d)(4)(B) of such Code, as added by this section, shall take effect on April 2, 1980.”

26 USC 46.

(f) CERTAIN LONG-TERM PROJECTS.—Subclause (I) of section 46(a)(2)(C)(iii) is amended to read as follows:

“(I) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed

and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and”.

#### SEC. 203. EFFECTIVE DATES.

(a) **GENERAL RULE.**—Except as provided in subsection (b), any amendment made by this title shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 to which such amendment relates.

26 USC 4988  
note.

(b) **EXCEPTIONS.**—

26 USC 1 note.  
26 USC 4988  
note.

(1) **DEFINITION OF INDEPENDENT PRODUCER.**—The amendment made by section 201(d)(1) shall take effect on January 1, 1983.

(2) **PENALTY PROVISION.**—The amendments made by section 201(i) shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act.

(3) **AMENDMENTS TO SECTION 613A.**—

26 USC 613A.

(A) The amendment made by section 202(d)(1) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

(B) The amendment made by section 202(d)(2) shall apply to bulk sales after September 18, 1982.

(4) **NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.**—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1954 by reason of the amendment made by section 201(h)(2)(A) of this Act before the date on which regulations with respect to such amendment are published in the Federal Register.

(c) **NO INTEREST FOR PAST PERIODS RESULTING FROM AMENDMENTS RELATING TO COST RECOVERY OIL.**—No interest shall be paid or credited with respect to the credit or refund of any overpayment of tax imposed by the Internal Revenue Code of 1954, and no interest shall be assessed or collected with respect to any underpayment of tax imposed by such Code, for any period before the date which is 60 days after the date of the enactment of this Act, to the extent that such overpayment or underpayment is attributable to the amendments made by section 201(h)(1).

26 USC 4996  
note.

## TITLE III—AMENDMENTS RELATED TO INSTALLMENT SALES REVISION ACT OF 1980, ETC.

#### SEC. 301. CLARIFICATION OF ATTRIBUTION RULES IN SECTION 1239.

(a) **DEFINITION OF RELATED PERSONS.**—Subsection (b) of section 1239 (defining related persons) is amended to read as follows:

26 USC 1239.

“(b) **RELATED PERSONS.**—For purposes of subsection (a), the term ‘related persons’ means—

“(1) a husband and wife, and

“(2) a person and all entities which are 80-percent owned entities with respect to such person.”

26 USC 1239. (b) 80-PERCENT OWNED ENTITY DEFINED.—Subsection (c) of section 1239 (defining 80-percent owned entity) is amended to read as follows:

“(c) 80-PERCENT OWNED ENTITY DEFINED.—

“(1) GENERAL RULE.—For purposes of this section, the term ‘80-percent owned entity’ means, with respect to any person—

“(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for such person, and

“(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person.

“(2) CONSTRUCTIVE OWNERSHIP.—For purposes of subparagraphs (A) and (B) of paragraph (1), the principles of section 318 shall apply, except that—

“(A) the members of an individual’s family shall consist only of such individual and such individual’s spouse,

“(B) paragraph (2)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein, and

“(C) paragraph (3) of section 318(a) shall not apply.”

#### SEC. 302. CORRECTION OF CLERICAL ERROR IN SECTION 453B(d)(2).

26 USC 453B. Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out “to the extent that under paragraph (1)” and inserting in lieu thereof “to the extent that under subsection (a)”.

#### SEC. 303. CLARIFICATION OF INSTALLMENT SALE RULES WITH RESPECT TO LIKE-KIND EXCHANGES.

26 USC 453. Subparagraph (C) of section 453(f)(6) (relating to like-kind exchanges) is amended by inserting “, when used in any provision of this section other than subsection (b)(1),” after “the term ‘payment’ ”.

#### SEC. 304. TECHNICAL CORRECTIONS TO BANKRUPTCY TAX ACT OF 1980.

26 USC 443. (a) CORRECTION OF CLERICAL ERROR RELATING TO CROSS REFERENCE.—The last sentence of subsection (e) of section 443 (relating to returns for a period of less than 12 months) is amended by striking out “section 1398(d)(3)(E)” and inserting in lieu thereof “section 1398(d)(2)(E)”.

26 USC 368. (b) CLARIFICATION OF CERTAIN TRANSFERS OF ASSETS IN SUBPARAGRAPH (G) REORGANIZATIONS.—The last sentence of subparagraph (C) of section 368(a)(2) (relating to special rules relating to definition of reorganization) is amended by striking out “or stock”.

(c) TRANSFER OF ASSETS IN A TITLE 11 OR SIMILAR CASE.—Clause (i) of section 368(a)(3)(B) (relating to transfer of assets in a title 11 or similar case) is amended by striking out “such corporation” and inserting in lieu thereof “any party to the reorganization”.

26 USC 108. (d) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—Subparagraph (A) of section 108(e)(7) (relating to recapture of gain on subsequent sale of stock) is amended—

(1) by striking out “and” at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof “, and”, and

(3) by inserting after clause (ii) the following new clause:

“(iii) an exchange of such stock qualifying under section 354(a), 355(a), or 356(a) shall be treated as an exchange to which section 1245(b)(3) applies.”

**SEC. 305. MISCELLANEOUS AMENDMENTS.**

(a) **Effective Date of Section 404A.**—Subparagraph (E) of section 2(e)(2) of Public Law 96-603 is amended by striking out “was barred” and inserting in lieu thereof “was not barred”. 26 USC 404A note.

(b) **REDESIGNATION OF SECTION 194.**—

(1) The section 194 which relates to contributions to employer liability trusts is hereby redesignated as section 194A. 26 USC 194, 194A.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to the section 194 which relates to contributions to employer liability trusts and inserting in lieu thereof the following:

“Sec. 194A. Contributions to employer liability trusts.”

(c) **AMENDMENT RELATED TO SECTION 421 OF THE REVENUE ACT OF 1978.**—The last sentence of section 55(b)(1), as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “subparagraph (A)” and inserting in lieu thereof “subparagraph (A) (and in determining the sum of itemized deductions for purposes of subparagraph (C)(i))”. 26 USC 55.  
*Ante*, p. 324.

(d) **AMENDMENTS RELATED TO SUBCHAPTER S REVISION ACT OF 1982.**—

(1)(A) Section 6 of the Subchapter S Revision Act of 1982 is amended by adding at the end thereof the following new subsection: *Ante*, p. 1697.  
26 USC 1361 note.

“(f) **TAXABLE YEAR OF S CORPORATIONS.**—Section 1378 of the Internal Revenue Code of 1954 (as added by this Act) shall take effect on the day after the date of the enactment of this Act. For purposes of applying such section, the reference in subsection (a)(2) of such section to an election under section 1362(a) shall include a reference to an election under section 1372(a) of such Code as in effect on the day before the date of the enactment of this Act.”

(B) **If—**

(i) after September 30, 1982, and on or before the date of the enactment of this Act, stock or securities were transferred to a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954 as amended by the Subchapter S Revision Act of 1982) in a transaction to which section 351 of such Code applies, and

(ii) such corporation is liquidated under section 333 of such Code before March 1, 1983,

then such stock or securities shall not be taken into account under section 333(e)(2) of such Code. 26 USC 1361 note.

(2) Subsection (e) of section 1368 (relating to distributions) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 1680.

“(3) **ELECTION TO DISTRIBUTE EARNINGS FIRST.**—

“(A) **IN GENERAL.**—An S corporation may, with the consent of all of its affected shareholders, elect to have paragraph (1) of subsection (c) not apply to all distributions made during the taxable year for which the election is made.

“(B) AFFECTED SHAREHOLDER.—For purposes of subparagraph (A), the term ‘affected shareholder’ means any shareholder to whom a distribution is made by the S corporation during the taxable year.”

*Ante*, p. 1683.

(3) Subsection (d) of section 1374 (relating to determination of taxable income) is amended by striking out “subsections (a)(2) and (b)(2)” and inserting in lieu thereof “this section”.

26 USC 221.

(4) Subparagraph (B) of section 221(b)(1) is amended by striking out “(9),”.

26 USC 4975.

(5) The last sentence of section 4975(d) is amended by striking out “section 1379” and inserting in lieu thereof “section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982”.

*Ante*, p. 1729.  
26 USC 7448  
note.

(e) AMENDMENT RELATED TO MISCELLANEOUS REVENUE ACT OF 1982.—Subsection (c) of section 105 of the Miscellaneous Revenue Act of 1982 is amended by striking out “the amendment made by subsection (a)” and inserting in lieu thereof “the amendment made by subsection (b)”.

#### SEC. 306. TECHNICAL AMENDMENTS TO THE REVENUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

##### (a) AMENDMENTS RELATED TO TITLE II.—

*Ante*, p. 411.

##### (1) AMENDMENTS RELATED TO SECTION 201.—

(A) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(i) by redesignating the second subsection (c) as subsection (d), and

26 USC 56 note.

(ii) by striking out “subsection (c)(1)” in subsection (e)(2) and inserting in lieu thereof “subsection (d)(1)”.

26 USC 55.

(B) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) is amended by striking out “net capital gain” and inserting in lieu thereof “capital gain net income”.

(C) Subparagraph (B) of section 55(d)(2) (relating to adjustments to net operating loss computation) is amended by striking out “subparagraph (A)” and inserting in lieu thereof “paragraph (1)”.

*Ante*, p. 423.

26 USC 291.

(2) AMENDMENT RELATED TO SECTION 204.—Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items) is amended by adding at the end thereof the following new sentence: “Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d).”

*Ante*, p. 427.

26 USC 48.

(3) AMENDMENT RELATED TO SECTION 205.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out “paragraphs (1) and (2)” and inserting in lieu thereof “paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)”.

*Ante*, p. 432.

##### (4) AMENDMENTS RELATED TO SECTION 208.—

(A) Subsection (d) of section 208 of such Act is amended—

(i) by striking out “described in section 1381(a)” in paragraph (3)(E)(i) and inserting in lieu thereof “engaged in the furnishing of electric energy to persons in rural areas”, and

26 USC 168 note.



(ii) by inserting “, or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)” after “as added by subsection (a)(1)” in paragraph (5) thereof. 26 USC 168 note.

(B) Subsection (d) of section 208 of such Act (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 26 USC 168 note.

“(7) COORDINATION WITH AT RISK RULES.—Subparagraph (J) of section 168(f)(8) of the Internal Revenue Code of 1954 (as added by subsection (b)(4)) shall take effect as provided in such subparagraph (J).”

(C) Subparagraph (C) of section 208(d)(3) of such Act (defining transitional safe harbor lease property) is amended to read as follows: 26 USC 168 note.

“(C) AUTOMOTIVE MANUFACTURING PROPERTY.—

“(i) IN GENERAL.—Property is described in this subparagraph if—

“(I) such property is used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture of automobiles or light-duty trucks,

“(II) such property is automotive manufacturing property, and

“(III) such property would be described in subparagraph (A) if ‘October 1’ were substituted for ‘January 1’.

“(ii) LIGHT-DUTY TRUCK.—For purposes of this subparagraph, the term ‘light-duty truck’ means any truck with a gross vehicle weight of 13,000 pounds or less. Such term shall not include any truck tractor.

“(iii) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this subparagraph, the term ‘automotive manufacturing property’ means machinery, equipment, and special tools of the type included in the former asset depreciation range guideline classes 37.11 and 37.12.

“(iv) SPECIAL TOOLS USED BY CERTAIN VENDORS.—For purposes of this subparagraph, any special tools owned by a taxpayer described in subclause (I) of clause (i) which are used by a vendor solely for the production of component parts for sale to the taxpayer shall be treated as automotive manufacturing property used directly by such taxpayer.”

(5) AMENDMENT RELATED TO SECTION 211.—Paragraph (2) of section 211(e) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for foreign tax credit for taxes on oil and gas income) is amended to read as follows: *Ante*, p. 448.  
26 USC 907 note.

“(2) Retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss.—

“(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) The term ‘separate basket foreign loss’ means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

“(ii) An ‘old’ section is such section as in effect on the day before the date of the enactment of this Act.”

*Ante*, p. 478.

26 USC 302 note.

(6) AMENDMENTS RELATED TO SECTION 222.—

(A) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting “, except that in applying such section both direct and indirect ownership of stock shall be taken into account” before the period at the end thereof.

26 USC 312.

(B)(i) Paragraph (3) of section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out “in partial liquidation or”.

(ii) The heading for paragraph (3) of section 312(j) is amended to read as follows:

“(3) REDEMPTIONS.—”.

*Ante*, p. 483.

26 USC 311 note.

(7) AMENDMENT RELATED TO SECTION 223.—Subparagraph (B) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appreciated property in redemption of stock) is amended to read as follows:

“(B) either before October 21, 1982, or within 90 days after the date of such ruling.”

(8) AMENDMENTS RELATED TO SECTION 224.—

*Ante*, p. 485.

(A)(i) Subsection (h) of section 338 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

“(8) TARGET NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as otherwise provided in paragraph (9) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in subsection (a)(1).

“(9) ELECTIVE RECOGNITION OF GAIN OR LOSS BY TARGET CORPORATION, TOGETHER WITH NONRECOGNITION OF GAIN OR LOSS ON STOCK SOLD BY SELLING CONSOLIDATED GROUP.—

“(A) IN GENERAL.—Under regulations prescribed by the Secretary, an election may be made under which if—

“(i) the target corporation was, before the transaction, a member of the selling consolidated group, and

“(ii) the target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction,

then the target corporation shall be treated as a member of the selling consolidated group with respect to such sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

“(B) SELLING CONSOLIDATED GROUP.—For purposes of subparagraph (A), the term ‘selling consolidated group’ means any group of corporations which (for the taxable period which includes the transaction)—

“(i) includes the target corporation, and

“(ii) files a consolidated return.”

(ii) If—

26 USC 338 note.

(I) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, and on or before the date of the enactment of this Act, and *Ante*, p. 324.

(II) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, the target corporation would be treated as a member of the affiliated group which includes the selling corporation,

then the amendment made by clause (i) shall not apply to such qualified stock purchase.

(B)(i) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraphs: *Ante*, p. 485.  
26 USC 338 note.

**“(4) EXTENSION OF TIME FOR MAKING ELECTIONS; REVOCATION OF ELECTIONS.—**

“(A) EXTENSION.—The time for making an election under section 338 of such Code shall not expire before the close of February 28, 1983.

“(B) REVOCATION.—Any election made under section 338 of such Code may be revoked by the purchasing corporation if revoked before March 1, 1983.

**“(5) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2).—**

“(A) IN GENERAL.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)—

“(i) the date selected under subparagraph (B) of this paragraph shall be treated as the acquisition date,

“(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

“(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (6), (8), and (9) of subsection (h) of such section 338, shall not apply.

“(B) SELECTION OF ACQUISITION DATE BY PURCHASING CORPORATION.—The purchasing corporation may select any date for purposes of subparagraph (A)(i) if such date—

“(i) is after the later of June 30, 1982, or the acquisition date (within the meaning of section 338 of such Code without regard to this paragraph), and

“(ii) is on or before the date on which the election described in paragraph (2)(C) is made.”

(ii) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out “under paragraph (1)” and inserting in lieu thereof “(within the meaning of section 338 of such Code without regard to paragraph (5) of this subsection)”. *26 USC 338 note.*

**(9) AMENDMENTS RELATED TO SECTION 231.—**

(A) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out “section 1232(a)(4)(A)” and inserting in lieu thereof “section 1232(a)(3)(A)”. *26 USC 263.*

(B) Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (c). *26 USC 1232.*

26 USC 1232.

(C)(i) The next to the last sentence of section 1232(b)(2) (defining issue price) is amended by striking out “(other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371 or 374)”.

(ii) Subsection (b) of section 1232 is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE FOR EXCHANGE OF BONDS IN REORGANIZATIONS.—

“(A) IN GENERAL.—If—

“(i) any bond is issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) for another bond (hereinafter in this paragraph referred to as the ‘old bond’), and

“(ii) the fair market value of the old bond is less than its adjusted issue price,

then, for purposes of the next to the last sentence of paragraph (2), the fair market value of the old bond shall be treated as equal to its adjusted issue price.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) BOND.—The term ‘bond’ includes any other evidence of indebtedness and an investment unit.

“(ii) ADJUSTED ISSUE PRICE.—

“(I) IN GENERAL.—The adjusted issue price of the old bond is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)).

“(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old bond is its issue price, increased by any original issue discount previously allowed as a deduction.”

26 USC 1232 note.

(iii) For purposes of paragraph (4) of section 1232(b) of the Internal Revenue Code of 1954 (as added by clause (ii)), any insolvency reorganization within the meaning of section 371 or 374 of such Code shall be treated as a reorganization within the meaning of section 368(a)(1) of such Code.

26 USC 1232 note.

(iv) The amendments made by this subparagraph shall apply to evidences of indebtedness issued after December 13, 1982; except that such amendments shall not apply to any evidence of indebtedness issued after such date pursuant to a written commitment which was binding on such date and at all times thereafter.

Ante, p. 505.  
26 USC 415 note.

(10) AMENDMENT RELATED TO SECTION 235.—Section 235(g)(5) of such Act is amended by striking out “section 253” and inserting in lieu thereof “section 242”.

Ante, p. 509.  
26 USC 72 note.

(11) AMENDMENT RELATED TO SECTION 236.—Subsection (c) of section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new paragraph:

“(3) TREATMENT OF CERTAIN RENEGOTIATIONS.—If—

“(A) the taxpayer after August 13, 1982, and before September 4, 1982, borrows money from a government plan (as

defined in section 219(e)(4) of the Internal Revenue Code of 1954).

“(B) under the applicable State law, such loan requires the renegotiation of all outstanding prior loans made to the taxpayer under such plan, and

“(C) the renegotiation described in subparagraph (B) does not change the interest rate on, or extend the duration of, any such outstanding prior loan,

then the renegotiation described in subparagraph (B) shall not be treated as a renegotiation, extension, renewal, or revision for purposes of paragraph (1). If the renegotiation described in subparagraph (B) does not meet the requirements of subparagraph (C) solely because it extends the duration of any such outstanding prior loan, the requirements of subparagraph (C) shall be treated as met with respect to such renegotiation if, before April 1, 1983, such extension is eliminated.”

(12) AMENDMENT RELATED TO SECTION 237.—Paragraph (2) of section 401(d) (as redesignated by section 237 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out “paragraph (9)(B)” and inserting in lieu thereof “paragraph (1)(B)”.

*Ante*, p. 511.  
26 USC 401.

(13) AMENDMENT RELATED TO SECTION 266.—Section 266(c)(3) of such Act is amended by striking out “section 103(f)(2)(C)” and inserting in lieu thereof “section 101(f)(2)(C)”.

*Ante*, p. 547.  
26 USC 101 note.

(14) AMENDMENT RELATED TO SECTION 283.—Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out “January 18” and inserting in lieu thereof “February 17”.

*Ante*, p. 568.  
26 USC 5701  
note.

(b) AMENDMENTS RELATED TO TITLE III.—

(1) AMENDMENTS RELATED TO SECTION 302.—

*Ante*, p. 585.  
26 USC 31.

(A) Subsection (d) of section 31 (relating to year for which credit allowed) is amended to read as follows:

“(d) YEAR FOR WHICH CREDIT ALLOWED.—

“(1) WAGES.—Any credit allowed—

“(A) by subsection (a) shall be allowed for the taxable year beginning in the calendar year in which the amount is withheld, or

“(B) by subsection (c) shall be allowed for the taxable year beginning in the calendar year in which the wages are received.

For purposes of this paragraph, if more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

“(2) INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Any credit allowed by subsection (b) shall be allowed for the taxable year of the recipient of the income in which the amount is received.”

(B) Paragraph (4) of section 3(i) of the Subchapter S Revision Act of 1982 is hereby repealed.

*Ante*, p. 1687.  
26 USC 31.

(2) AMENDMENT RELATED TO SECTION 310.—Subsection (d) of section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for requirement that obligations be registered) is amended by adding at the end thereof the following new paragraph:

*Ante*, p. 595.  
26 USC 103 note.

“(4) EFFECTIVE DATE FOR TAX-EXEMPT OBLIGATIONS.—In the case of obligations the interest on which is exempt from tax

(determined without regard to the amendments made by this section)—

“(A) under section 103 of the Internal Revenue Code of 1954, or

“(B) under any other provision of law (without regard to the identity of the holder),

the amendments made by this section shall apply only to obligations issued after June 30, 1983. The preceding sentence shall not apply in the case of any obligation which under the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) was required to be in registered form.”

*Ante*, p. 628.  
26 USC 7701.

(3) AMENDMENT RELATED TO SECTION 336.—Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) (as added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

*Ante*, p. 631.  
26 USC 6038A.

(4) AMENDMENT RELATED TO SECTION 339.—Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting “, (b)(2)(C),” after “(a)(4)”.

*Ante*, p. 640.  
26 USC 501.

(5) AMENDMENT RELATED TO SECTION 354.—Paragraph (23) of section 501(c) (relating to exempt organizations) is amended by striking out “25 percent” and inserting in lieu thereof “75 percent”.

(c) AMENDMENTS RELATED TO TITLE IV.—

*Ante*, p. 648.  
26 USC 6226.

(1) AMENDMENTS RELATED TO SECTION 402.—

(A) The second sentence of section 6226(g) (relating to determination of court reviewable) is amended by striking out “Only” and inserting in lieu thereof “With respect to the partnership, only”.

26 USC 6228.

(B) The second sentence of section 6228(a)(6) (relating to determination of court reviewable) is amended by striking out “Only” and inserting in lieu thereof “With respect to the partnership, only”.

*Ante*, p. 669.  
26 USC 6679.

(2) AMENDMENTS RELATED TO SECTION 405.—

(A) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

“(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisition of their stock), as amended by section 340(b)(1), is amended by striking out ‘section 6035 or 6046’ and inserting in lieu thereof ‘section 6035, 6046, or 6046A’.”

(B) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as follows:

“(2) The section heading of section 6679, as amended by section 340(b)(2), is amended to read as follows:

“‘SEC. 6679. FAILURE TO FILE RETURNS, ETC., WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.’

“(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

“‘Sec. 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.’”

**SEC. 307. EXTENSION OF CERTAIN PROVISIONS RELATING TO MEMBERS OF THE ARMED FORCES MISSING IN ACTION.**

(a) **SURVIVING SPOUSE.**—Clause (i) of section 2(a)(3)(B) (relating to special rule where deceased spouse was in missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 2.

(b) **INCOME TAXES ON MEMBERS OF ARMED FORCES ON DEATH.**—Paragraph (1) of section 692(b) (relating to income taxes of members of the Armed Forces on death while in a missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 692.

(c) **JOINT RETURNS BY HUSBAND AND WIFE.**—The last sentence of section 6013(f)(1) (relating to joint return where individual is in missing status) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 6013.

(d) **TIME FOR PERFORMING CERTAIN ACTS POSTPONED.**—Paragraph (1) of section 7508(b) (relating to the application to spouse of provisions relating to the time for performing certain acts postponed by reason of service in combat zone) is amended by striking out “January 2, 1978” and inserting in lieu thereof “December 31, 1982”. 26 USC 7508.

**SEC. 308. EXTENSION OF TIME FOR PAYMENT OF CIGARETTE TAX.**

(a) **IN GENERAL.**—Subsection (b) of section 5703 (relating to method of payment of tax) is amended to read as follows: 26 USC 5703.

**“(b) METHOD OF PAYMENT OF TAX.—**

**“(1) IN GENERAL.**—The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

**“(2) TIME FOR MAKING OF RETURN AND PAYMENT OF TAXES.**—In the case of tobacco products and cigarette papers and tubes removed after December 31, 1982, under bond for deferred payment of tax, the last day for filing a return and paying any tax due for each return period shall be the last day of the first succeeding return period plus 10 days.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982. 26 USC 5703 note.

**SEC. 309. TECHNICAL CORRECTIONS RELATING TO SPENDING REDUCTION PROVISIONS OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.**

*Ante*, p. 324.

42 USC 1395ww  
note.

42 USC 1395u  
note.

42 USC 1395xx  
note.

42 USC 1395x.

42 USC 1395cc.

42 USC 1395b-1  
note, 1395f note.

42 USC 1395f  
note.

42 USC 1396a,  
1396o note.

42 USC 1320c  
note.

42 USC 426 note.

(a)(1) Section 101(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "title 5" and inserting in lieu thereof "title 44".

(2) Section 104(b) of such Act is amended by striking out "made by this section".

(3) Section 108 of such Act is amended by redesignating subsection (c) as subsection (b).

(4) Section 109(b)(2) of such Act is amended by striking out "section 108(b)(2)" and inserting in lieu thereof "section 108(a)(2)".

(5) Section 122(g)(5) of such Act is amended by striking out "1866(b)(2)(A)" and inserting in lieu thereof "1866(a)(2)(A)".

(6) Section 122 of such Act is amended by redesignating the last three subsections as subsections (i), (j), and (k).

(7) Section 122(k) of such Act (as redesignated by paragraph (6)) is amended by striking out "1861(dd)(2)(A)(iv)" and inserting in lieu thereof "1861(dd)(2)(A)(iii)".

(8) Section 131 of such Act is amended by redesignating the last two subsections thereof as subsections (c) and (d).

(9)(A) The second sentence of section 150(a) of such Act and the first sentence of section 150(b) of such Act are each amended by striking out "contract" and inserting in lieu thereof "agreement".

(B) The first sentence of section 150(b) of such Act is amended by striking out "contracts" and inserting in lieu thereof "agreements".

(10) Section 278(c)(2)(A) of such Act is amended by striking out "paragraph (3) of that subsection" and inserting in lieu thereof "paragraph (2) of that subsection".

(11) Section 278(d) of such Act is amended—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act), the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be 'employment' (as defined for purposes of title II of such Act), but only for the purpose of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act.";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and striking out "or (2)" in subparagraph (A) thereof.

42 USC 426-1.

(b)(1) Section 226A(a)(1)(B)(iii) of the Social Security Act is amended by striking out "210(p)" after December 31, 1982," and inserting in lieu thereof "section 210(p)".

*Ante*, p. 382.

42 USC 1320c-2.

(2) Section 1153(d) of such Act is amended—

(A) in paragraph (1), by striking out "(c)(5)(B)" and inserting in lieu thereof "(c)(6)(B)"; and

(B) in paragraph (2), by striking out "(c)(5)(C)" and inserting in lieu thereof "(c)(6)(B)".

*Ante*, p. 385.

42 USC 1320c-3.

(3) Section 1154(a)(1)(A) of such Act is amended by striking out "or otherwise allowable under section 1862(a)(1)" and inserting in lieu



thereof “and whether such services and items are not allowable under subsection (a)(1) or (a)(9) of section 1862”.

(4) Section 1154(a)(2)(B) of such Act is amended by striking out “posthospital”.

*Ante*, p. 385.  
42 USC 1320c-3.

(5) Section 1812(d)(2)(A) of such Act is amended by striking out “or to other than services” and inserting in lieu thereof “or to services”.

*Ante*, p. 356.  
42 USC 1395d.

(6) The heading of subsection (i) of section 1814 of such Act is amended to read as follows:

“Payment for Hospice Care”.

(7) Section 1814(i)(1) of such Act is amended by inserting “made” before “for bereavement counseling”.

*Ante*, p. 358.  
42 USC 1395f.

(8) Section 1839(d) of such Act is amended by striking out “subsection (b) or (c)” and inserting in lieu thereof “subsection (b), (c), or (g)”.

42 USC 1395r.

(9) The heading of subsection (dd) of section 1861 of such Act is amended to read as follows:

*Ante*, p. 359.  
42 USC 1395x.

“Hospice Care; Hospice Program”.

(10) Section 1862(b)(3)(A)(i) of such Act is amended—

*Ante*, p. 353.  
42 USC 1395y.

(A) by inserting “in any month” after “service furnished”; and

(B) by inserting “during any part of such month” after “70 years of age” each place it appears.

(11) Section 1866(a)(2)(A) of such Act is amended by inserting a comma after “1813(a)(1)”.

42 USC 1395cc.

(12) Section 1876(g)(1) of such Act is amended by striking out “subsection (b)(1)” and inserting in lieu thereof “subsection (b)”.

*Ante*, p. 341.  
42 USC 1395mm.

(13) Section 1886(a)(4) of such Act is amended by striking out “and such costs are determined” and inserting in lieu thereof “as such costs are determined”.

*Ante*, p. 331.  
42 USC 1395ww.

(14) Section 1886(b)(1) of such Act is amended by striking out “sections 1814(b)” and inserting in lieu thereof “section 1814(b)”.

(15) Section 1886(b)(6)(C) of such Act is amended by striking out “under this subsection” in the matter before clause (i) and inserting in lieu thereof “under this title (taking into account any limitation under subsection (a))”.

(16) Section 1903(t)(3) of such Act is amended to read as follows:

42 USC 1396b.

“(3) Only for the purposes of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the lower of the Federal medical assistance percentage for the State in effect for fiscal year 1981, or the Federal medical assistance percentage for the State in effect for fiscal year 1982.”

(17) Section 1915(c)(2)(B) of such Act is amended by striking out “need for such services” in the matter following clause (iii) and inserting in lieu thereof “need for such skilled nursing facility or intermediate care facility services”.

*Ante*, p. 380.  
42 USC 1396n.

(18) Section 1916(c) of such Act is amended by striking out “this subparagraph” and inserting in lieu thereof “this subsection”.

*Ante*, p. 367.  
42 USC 1396o.

*Ante*, p. 367.  
42 USC 1396o.

(19) Section 1916(d) of such Act is amended by striking out “unless authorized under this section” and inserting in lieu thereof “, except as provided in subsections (a)(3) and (b)(3)”.

*Ante*, p. 370.  
42 USC 1396p.

(20) Section 1916(d)(5) of such Act is amended by striking out “in which participation is voluntary, or in which provision is made” and inserting in lieu thereof “is voluntary, or makes provision”.

(21) Section 1917(b)(2)(B) of such Act is amended by striking out “and has lawfully resided” and inserting in lieu thereof “who has lawfully resided”.

(22) Section 1917(c)(2)(B)(iii) of such Act is amended—

(A) in subclause (I), by striking out “cannot” and inserting in lieu thereof “can”; and

(B) in subclause (IV), by striking out “if”.

*Ante*, p. 551.  
42 USC 410.

(23) Subsection (p) of section 210 of such Act (as added by section 269(b) of the Tax Equity and Fiscal Responsibility Act of 1982, relating to treatment of real estate agents) is redesignated as subsection (q).

42 USC 426 note.

(c)(1) Any amendment to the Tax Equity and Fiscal Responsibility Act of 1982 made by this section shall be effective as if it had been originally included in the provision of such Act to which such amendment relates.

42 USC 426-1  
note.

(2) Any amendment to the Social Security Act made by this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of such Act was amended or added by the Tax Equity and Fiscal Responsibility Act of 1982.

42 USC 1320c  
note.

(d) In order to avoid unfairly discriminating against professional standards review organizations whose performance was evaluated during the first and second calendar quarters of 1982, the Secretary of Health and Human Services shall disregard the results of such evaluations and shall carry out such new evaluations of such organizations as may be necessary to select utilization and quality control peer review organizations in accordance with subtitle C of title I of the Tax Equity and Fiscal Responsibility Act of 1982 and part B of title XI of the Social Security Act as amended by such subtitle.

42 USC 1395b-1  
note.

(e) Section 122(i) of the Tax Equity and Fiscal Responsibility Act of 1982 (as redesignated by subsection (a)(6) of this section) is amended by adding at the end thereof the following new paragraph:

“(3)(A) Notwithstanding the provisions of paragraph (1), the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of a hospice demonstration project described in paragraph (1) until September 30, 1986, if the hospice involved in such demonstration project does not provide hospice care directly but acts as a channeling agency for the provision of hospice care.

“(B) During the period after the date on which a hospice demonstration project described in subparagraph (A) would otherwise have terminated under the provisions of paragraph (1), and prior to September 30, 1986, any such hospice demonstration project shall be subject to the same requirements as are imposed under the hospice program provided for under the amendments made by this section with respect to reimbursement and benefits, other than the requirement that certain benefits be provided directly by the hospice involved.”.

**SEC. 310. TECHNICAL CORRECTION RELATING TO FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION PROGRAM.**

(a) Section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

26 USC 3304  
note.

- (1) by striking out “and” at the end of paragraph (1);
- (2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and
- (3) by inserting after paragraph (2) the following new paragraph:

“(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, multiplied by the number ‘6’, ‘8’, or ‘10’, whichever is applicable under subsection (e)(2)(A)(ii) in the State in which such individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.”.

26 USC 3304  
note.

(b) The amendment made by subsection (a) shall be effective as if it had been originally included in section 602 of the Tax Equity and Fiscal Responsibility Act of 1982.

Effective date.  
26 USC 3304  
note.  
*Ante*, p. 702.

**SEC. 311. EFFECTIVE DATES.**

(a) FOR SECTIONS 301, 302, AND 303.—The amendments made by sections 301, 302, and 303 shall apply to dispositions made after October 19, 1980, in taxable years ending after such date.

26 USC 453 note.

(b) FOR SECTION 304.—

(1) The amendment made by subsection (a) of section 304 shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980.

26 USC 443 note.

(2) The amendment made by subsection (b) of section 304 shall take effect as if included in the amendments made by section 4 of such Act.

94 Stat. 3397.

26 USC 368 note.

94 Stat. 3401.

(c) FOR SECTION 305.—

(1) The amendment made by subsection (a) of section 305 shall take effect on December 28, 1980.

26 USC 404A  
note.

(2) The amendments made by subsection (b) of section 305 shall take effect on October 14, 1980.

26 USC 194A  
note.

(3) The amendment made by subsection (c) of section 305 shall take effect as if included in the amendments made by section 421 of the Revenue Act of 1978.

26 USC 55 note.

92 Stat. 2871.

(4) The amendments made by subsection (d) of section 305 shall take effect on the date of the enactment of the Subchapter S Revision Act of 1982.

26 USC 221 note.

*Ante*, p. 1669.

26 USC 7448  
note.

*Ante*, p. 1726.

26 USC 31 note.

*Ante*, p. 324.

**(5) The amendment made by subsection (e) of section 305 shall take effect on the date of the enactment of the Miscellaneous Revenue Act of 1982.**

**(d) For Section 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.**

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 6056:**

HOUSE REPORTS: No. 97-794 (Comm. on Ways and Means) and No. 97-986 (Comm. of Conference).

SENATE REPORT No. 97-592 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 14, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Dec. 13, House concurred in certain Senate amendments in others with amendments.

Dec. 21, House agreed to conference report.

Dec. 22, Senate agreed to conference report.

Public Law 97-449  
97th Congress

An Act

To revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation".

Jan. 12, 1983

[H.R. 6993]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SUBTITLE I AND CHAPTER 31 OF SUBTITLE II OF TITLE 49, UNITED STATES CODE

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsection (b) of this section without substantive change as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. § \_\_\_\_\_".

(b) Title 49, United States Code, is amended by striking out the table of subtitles at the beginning of the title and substituting the following new table of subtitles and subtitles I and II:

Department of Transportation and Motor Carrier Safety. Enactment as Subtitle I and chapter 31 of Subtitle II of title 49, United States Code.  
49 USC note prec. 101.

**TITLE 49—TRANSPORTATION**

SUBTITLE	Sec.
I. DEPARTMENT OF TRANSPORTATION .....	101
II. TRANSPORTATION PROGRAMS .....	3101
III. [RESERVED—AIR TRANSPORTATION] .....	
IV. INTERSTATE COMMERCE .....	10101
V. [RESERVED—MISCELLANEOUS] .....	

**SUBTITLE I—DEPARTMENT OF TRANSPORTATION**

CHAPTER	Sec.
1. ORGANIZATION .....	101
3. GENERAL DUTIES AND POWERS .....	301
5. SPECIAL AUTHORITY .....	501

**CHAPTER 1—ORGANIZATION**

Sec.
101. Purpose.
102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.
106. Federal Aviation Administration.
107. Urban Mass Transportation Administration.
108. Coast Guard.
109. Maritime Administration.
110. St. Lawrence Seaway Development Corporation.

49 USC 101.

**§ 101. Purpose**

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

(b) A Department of Transportation is necessary in the public interest and to—

(1) ensure the coordinated and effective administration of the transportation programs of the United States Government;

(2) make easier the development and improvement of coordinated transportation service to be provided by private enterprise to the greatest extent feasible;

(3) encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested persons to achieve transportation objectives;

(4) stimulate technological advances in transportation;

(5) provide general leadership in identifying and solving transportation problems; and

(6) develop and recommend to the President and Congress transportation policies and programs to achieve transportation objectives considering the needs of the public, users, carriers, industry, labor, and national defense.

49 USC 102.

**§ 102. Department of Transportation**

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of the Secretary and Deputy Secretary are vacant.

(e) The Department shall have a seal that shall be judicially recognized.

Department  
seal.

49 USC 103.

**§ 103. Federal Railroad Administration**

(a) The Federal Railroad Administration is an administration in the Department of Transportation. To carry out all railroad safety laws of the United States, the Administration is divided on a

geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary.

(c) The Administrator shall carry out—

(1) duties and powers related to railroad safety vested in the Secretary by section 6(e) (1), (2), and (6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (2), and (6)(A)); and

(2) additional duties and powers prescribed by the Secretary.

(d) A duty or power specified by subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

5 USC 901 *et seq.*

#### § 104. Federal Highway Administration

49 USC 104

(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b)(1) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety;

23 USC 401 *et seq.*

(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 31 of this title; and

(3) additional duties and powers prescribed by the Secretary.

*Post*, pp. 2430, 2437.

(d) A duty or power specified by subsection (c)(2) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

#### § 105. National Highway Traffic Safety Administration

49 USC 105.

(a) The National Highway Traffic Safety Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administration has a Deputy Administrator who is

appointed by the Secretary of Transportation, with the approval of the President.

(c) The Administrator shall carry out—

23 USC 401 *et*  
*seq.*

(1) duties and powers vested in the Secretary by chapter 4 of title 23, except those related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) The Secretary may carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 *et seq.*) through the Administrator.

(e) The Administrator shall consult with the Federal Highway Administrator on all matters related to the design, construction, maintenance, and operation of highways.

49 USC 106.

#### § 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator must—

(1) be a citizen of the United States;

(2) be a civilian; and

(3) have experience in a field directly related to aviation.

(d)(1) The Deputy Administrator must be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(3) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.



(f) The Secretary shall carry out the duties and powers, and controls the personnel and activities, of the Administration. The Secretary may not submit decisions for the approval of, nor be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(g) The Administrator shall carry out—

(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306-309, 312-314, 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 U.S.C. 1347-1350, 1353-1355, 1421 et seq., 1441 et seq., 1471 et seq., 1501, 1505, 1511, and 1521 et seq.); and

(2) additional duties and powers prescribed by the Secretary.

(h) Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1303) applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final.

5 USC 901 *et seq.*

(i) The Deputy Administrator shall carry out duties and powers prescribed by the Administrator. The Deputy Administrator acts for the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant.

#### **§ 107. Urban Mass Transportation Administration**

49 USC 107.

(a) The Urban Mass Transportation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator shall carry out duties and powers prescribed by the Secretary.

#### **§ 108. Coast Guard**

49 USC 108.

(a) Except when operating as a service in the Navy, the Coast Guard is a part of the Department of Transportation. The Secretary of Transportation exercises all duties and powers related to the Coast Guard vested in the Secretary of the Treasury, and other officers and offices of the Department of Treasury, immediately before April 1, 1967.

(b) The Commandant is the Chief of the Coast Guard. In addition to carrying out the duties and powers specified by law, the Commandant shall carry out duties and powers prescribed by the Secretary of Transportation. The Commandant reports directly to the Secretary.

#### **§ 109. Maritime Administration**

49 USC 109.

(a) The Maritime Administration transferred by section 2 of the Maritime Act of 1981 (46 U.S.C. 1601) is an administration in the Department of Transportation.

(b) The Administrator of the Administration appointed under section 4 of the Maritime Act of 1981 (46 U.S.C. 1603) reports directly to the Secretary of Transportation.

49 USC 110.

**§ 110. Saint Lawrence Seaway Development Corporation**

(a) The St. Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954 (33 U.S.C. 981), is subject to the direction and supervision of the Secretary of Transportation.

(b) The Administrator of the Corporation appointed under section 2 of the Act of May 13, 1954 (33 U.S.C. 982), reports directly to the Secretary.

**CHAPTER 3—GENERAL DUTIES AND POWERS****SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION**

- Sec.  
301. Leadership, consultation, and cooperation.  
302. Policy standards for transportation.  
303. Policy on lands, wildlife and waterfowl refuges, and historic sites.  
304. Joint activities with the Secretary of Housing and Urban Development.  
305. Transportation investment standards and criteria.  
306. Prohibited discrimination.  
307. Safety information and intervention in Interstate Commerce Commission proceedings.  
308. Annual reports.

**SUBCHAPTER II—ADMINISTRATIVE**

321. Definitions.  
322. General powers.  
323. Personnel.  
324. Members of the armed forces.  
325. Advisory committees.  
326. Gifts.  
327. Administrative working capital fund.  
328. Transportation Systems Center working capital fund.  
329. Transportation information.  
330. Research contracts.  
331. Service, supplies, and facilities at remote places.  
332. Minority Resource Center.  
333. Responsibility for rail transportation unification and coordination projects.  
334. Limit on aviation charges.  
335. Authorization of appropriations.

**SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION**

49 USC 301.

**§ 301. Leadership, consultation, and cooperation**

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies;

(2) provide leadership in the development of transportation policies and programs, and make recommendations to the President and Congress for their consideration and implementation;

(3) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation;

(4) consult and cooperate with the Secretary of Labor in compiling information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation;

(5) promote and undertake research and development related to transportation, including noise abatement, with particular attention to aircraft noise;

(6) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services; and

(7) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings.

### § 302. Policy standards for transportation

49 USC 302.

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 10101a of this title in addition to other laws.

(b) Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 U.S.C. 1651 et seq.) do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

*Ante*, p. 2413;  
*post*, p. 2437.

(c) The Secretary shall consider the needs—

- (1) for effectiveness and safety in transportation systems; and
- (2) of national defense.

### § 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

49 USC 303.

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) The Secretary may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

### § 304. Joint activities with the Secretary of Housing and Urban Development

49 USC 304.

(a) The Secretary of Transportation and the Secretary of Housing and Urban Development shall—

- (1) consult and exchange information about their respective transportation policies and activities;
- (2) carry out joint planning, research, and other activities;
- (3) coordinate assistance for local transportation projects; and
- (4) jointly study methods by which policies and programs of the United States Government can ensure that urban transportation systems most effectively serve both transportation needs of the United States and the comprehensively planned development of urban areas.

Report to  
President.

(b) The Secretaries shall report on April 1 of each year to the President, for submission to Congress, on their studies and other activities under this section, including legislative recommendations they consider desirable.

49 USC 305.

### **§ 305. Transportation investment standards and criteria**

(a) Subject to sections 301-304 of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

- (1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;
- (2) an inter-oceanic canal located outside the 48 contiguous States;
- (3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;
- (4) foreign assistance programs;
- (5) water resources projects; or
- (6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

- (1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—
  - (A) projected growth of transportation needs and traffic in the affected area;
  - (B) the relative efficiency of various modes of transportation;
  - (C) the available transportation services in the area; and
  - (D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;
- (2) coordinate the survey, plan, or report—
  - (A) with the Secretary and include the views and comments of the Secretary; and
  - (B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and

(3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

### § 306. Prohibited discrimination

49 USC 306.

(a) In this section, "financial assistance" includes obligation guarantees.

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 U.S.C. 1653(i), 1654).

(c) When the Secretary of Transportation decides that a person receiving financial assistance under a law referred to in subsection (b) of this section has not complied with that subsection, a Federal civil rights law, or an order or regulation issued under a Federal civil rights law, the Secretary shall notify the person of the decision and require the person to take necessary action to ensure compliance with that subsection.

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving a notice under subsection (c) of this section, the Secretary shall take at least one of the following actions:

(1) direct that no more Federal financial assistance be provided the person.

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.

(3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) take other action provided by law.

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief.

### § 307. Safety information and intervention in Interstate Commerce Commission proceedings

49 USC 307.

(a) The Secretary of Transportation shall inspect promptly the safety compliance record in the Department of Transportation of each person applying to the Interstate Commerce Commission for authority to provide transportation or freight forwarder service. The Secretary shall report the findings of the inspection to the Commission.

(b) When the Secretary is not satisfied with the safety record of a person applying for permanent authority to provide transportation or freight forwarder service, or for approval of a proposed transfer of permanent authority, the Secretary shall intervene and present evidence of the fitness of the person to the Commission in its proceedings.

(c) When requested by the Commission, the Secretary shall—

(1) provide the Commission with a complete report on the safety compliance of a carrier providing transportation or freight forwarder service subject to its jurisdiction;

(2) provide promptly a statement of the safety record of a person applying to the Commission for temporary authority to provide transportation;

(3) intervene and present evidence in a proceeding in which a finding of fitness is required; and

(4) make additional safety compliance surveys and inspections the Commission decides are desirable to allow it to act on an application or to make a finding on the fitness of a carrier.

49 USC 308.

### **§ 308. Annual reports**

(a) As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year. The report shall include a complete statement on the effectiveness of the United States Railway Association and the Consolidated Rail Corporation in carrying out the purposes of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include—

(1) collected information the Secretary considers valuable in deciding questions about—

(A) the development and regulation of civil aeronautics;

(B) the use of airspace of the United States; and

(C) the improvement of the air navigation and traffic control system; and

(2) recommendations for additional legislation and other action the Secretary considers necessary.

(c) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—

(1) economic and technological development of the ports;

(2) extent to which the ports contribute to the national welfare and security; and

(3) factors that may impede the continued development of the ports.

## **SUBCHAPTER II—ADMINISTRATIVE**

49 USC 321.

### **§ 321. Definitions**

In this subchapter, “aeronautics”, “air commerce”, and “air navigation facility” have the same meanings given those terms in section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(2), (4), (8)), respectively.

49 USC 322.

### **§ 322. General powers**

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee

of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

### § 323. Personnel

49 USC 323.

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than \$100 a day for services.

### § 324. Members of the armed forces

49 USC 324.

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide

for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

Report to  
congressional  
committees.

49 USC 325.

#### **§ 325. Advisory committees**

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.

5 USC 5703.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than \$100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

49 USC 326.

#### **§ 326. Gifts**

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.



(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

- (1) gifts of money;
- (2) income from property accepted under this section and proceeds from the sale of that property; and
- (3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

Investment.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

#### **§ 327. Administrative working capital fund**

49 USC 327.

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

- (1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;
- (2) central messenger, mail, telephone, and other communications services;
- (3) office space;
- (4) central services for document reproduction, and for graphics and visual aids; and
- (5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The fund consists of—

- (1) amounts appropriated to the fund;
- (2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;
- (3) amounts received from the sale or exchange of property; and
- (4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess.

#### **§ 328. Transportation Systems Center working capital fund**

49 USC 328.

(a) The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the

Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

49 USC 329.

### § 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.);

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.), the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that Act.

### § 330. Research contracts

49 USC 330.

(a) The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

### § 331. Service, supplies, and facilities at remote places

49 USC 331.

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

(1) emergency medical services and supplies.

(2) food and other subsistence supplies.

(3) messing facilities.

(4) motion picture equipment and film for recreation and training.

(5) living and working quarters and facilities.

(6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

Service charges.

(b) The Secretary shall prescribe reasonable charges for services, supplies, and facilities provided under subsection (a) (1), (2), and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then current fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

### § 332. Minority Resource Center

(a) In this section, "minority" includes women.

(b) The Department of Transportation has a Minority Resource Center. The Center may—

(1) include a national information clearinghouse for minority entrepreneurs and businesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

(2) carry out market research, planning, economic and business analyses, and feasibility studies to identify those business opportunities;

(3) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

(4) design and carry out programs to encourage, promote, and assist minority entrepreneurs and businesses in getting contracts, subcontracts, and projects related to those business opportunities;

(5) develop support mechanisms (including venture capital, surety and bonding organizations, and management and technical services) that will enable minority entrepreneurs and businesses to take advantage of those business opportunities;

(6) participate in, and cooperate with, United States Government programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses; and

(7) make arrangements to carry out this section.

(c) The Center has an advisory committee of 5 individuals appointed by the Secretary of Transportation. The Secretary shall make the appointments from lists of qualified individuals recommended by minority-dominated trade associations in the minority business community. Each of those trade associations may submit a list of not more than 3 qualified individuals.

(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with relevant information (including procurement schedules, bids, and specifications on particular maintenance, rehabilitation, restructuring,

improvement, and revitalization projects) the Center requests in carrying out this section.

**§ 333. Responsibility for rail transportation unification and coordination projects** 49 USC 333.

(a) The Secretary of Transportation may develop and make available to interested persons any plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail transportation (including arrangements for joint use of tracks and other facilities and acquisition or sale of assets) that the Secretary believes will result in a rail system that is more efficient and consistent with the public interest.

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or coordination of operations and facilities of at least 2 rail carriers.

(c)(1) The Secretary may conduct studies to determine the potential cost savings and possible improvements in the quality of rail transportation that are likely to result from unification or coordination of at least 2 rail carriers, through— Study.

(A) elimination of duplicating or overlapping operations and facilities;

(B) reducing switching operations;

(C) using the shortest or more efficient and economical routes;

(D) exchanging trackage rights;

(E) combining trackage and terminal or other facilities;

(F) upgrading tracks and other facilities used by at least 2 rail carriers;

(G) reducing administrative and other expenses; and

(H) other measures likely to reduce costs and improve rail transportation.

(2) When the Secretary requests information for a study under this section, a rail carrier shall provide the information requested. In carrying out this section, the Secretary may designate an officer or employee to get from a rail carrier information on the kind, quality, origin, destination, consignor, consignee, and routing of property. This information may be obtained without the consent of the consignor or consignee notwithstanding section 11910(a)(1) of this title. When appropriate, the designated officer or employee has the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 to carry out this section, but a subpoena must be issued under the signature of the Secretary. 49 USC 11910. 45 USC 713.

(d)(1) When requested by a rail carrier, the Secretary may hold conferences on and mediate disputes resulting from a proposed unification or coordination project. The Secretary may invite to a conference— Conferences.

(A) officers and directors of an affected rail carrier;

(B) representatives of rail carrier employees who may be affected;

(C) representatives of the Interstate Commerce Commission;

(D) State and local government officials, shippers, and consumer representatives; and

(E) representatives of the Federal Trade Commission and the Attorney General.

(2) A person attending or represented at a conference on a proposed unification or coordination project is not liable under the

antitrust laws of the United States for any discussion at the conference and for any agreements reached at the conference, that are entered into with the approval of the Secretary to achieve or determine a plan of action to carry out the unification or coordination project.

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Interstate Commerce Commission under section 11343(a) of this title, the Secretary may study the proposal to decide whether it satisfies section 11344(b) of this title. When the proposal is the subject of an application and proceeding before the Commission, the Secretary may appear in any proceeding related to the application.

49 USC 334. **§ 334. Limit on aviation charges**

The Secretary of Transportation may impose a charge for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the charge (1) was in effect on January 1, 1973, and (2) is not more than the charge that was in effect on that date. However, this section does not apply to a charge for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside of the United States, as defined in section 101(41) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(41)).

49 USC 335. **§ 335. Authorization of appropriations**

(a) The following amounts may be appropriated to the Secretary of Transportation:

(1) for necessary expenses of the Office of the Secretary (including not more than \$27,000 for allocation within the Department of Transportation of official reception and representation expenses as determined by the Secretary) not more than \$35,193,204 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(2) for necessary expenses of carrying out transportation planning, research, and development activities, including collecting national transportation statistics, \$10,486,615 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(3) for necessary expenses of the Minority Business Resource Center not otherwise provided for, not more than \$10,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984, to remain available until expended.

(4) for necessary expenses of carrying out the duties and powers of the Research and Special Programs Administration, not more than \$32,300,000 for the fiscal year ending September 30, 1983, and \$33,300,000 for the fiscal year ending September 30, 1984.

(b) The Secretary may use only amounts appropriated for the Office of the Secretary that are authorized for that Office by subsection (a) of this section.

## CHAPTER 5—SPECIAL AUTHORITY

### SUBCHAPTER I—DUTIES AND POWERS

Sec.

501. Definitions and application.

502. General authority.

- 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
- 504. Reports and records.
- 505. Arrangements and public records.
- 506. Authority to investigate.
- 507. Enforcement.

#### SUBCHAPTER II—PENALTIES

- 521. Civil penalties.
- 522. Reporting and record keeping violations.
- 523. Unlawful disclosure of information.
- 524. Evasion of regulation of motor carriers.
- 525. Disobedience to subpoenas.
- 526. General criminal penalty when specific penalty not provided.

#### SUBCHAPTER I—DUTIES AND POWERS

##### § 501. Definitions and application

49 USC 501.

(a) In this chapter—

(1) the definitions in section 10102 of this title apply.

49 USC 10102.

(2) “migrant worker” has the same meaning given that term in section 3101 of this title.

*Post*, p. 2438.

(3) “motor carrier of migrant workers” means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 3102(c) of this title.

*Post*, p. 2438.

(b) This chapter only applies in carrying out—

(1) chapter 31 of this title; and

*Post*, p. 2437.

(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 U.S.C. 1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966.

##### § 502. General authority

49 USC 502.

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpoena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpoena. The court may

punish a refusal to obey an order of the court to comply with a subpoena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

Notice.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

49 USC 503.

**§ 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers**

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor



vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

#### § 504. Reports and records

49 USC 504.

Definitions.

(a) In this section—

(1) “association” means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) “carrier” means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) “lessor” means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) “lessor” and “carrier” include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

49 USC 505.

#### **§ 505. Arrangements and public records**

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics, tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding.

49 USC 506.

#### **§ 506. Authority to investigate**

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

Notice.

Complaint.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary

may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

#### **§ 507. Enforcement**

49 USC 507.

(a) The Secretary of Transportation may bring a civil action to enforce—

Civil action.

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

(2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(d) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

### **SUBCHAPTER II—PENALTIES**

#### **§ 521. Civil penalties**

49 USC 521.

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b)(1) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under this chapter about transportation by motor carrier, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Secretary, is liable to the Government for a civil penalty of not more than \$500 for each violation and for not more than \$250 for each additional day the violation continues.

49 USC 10101. (2) Trial in a civil action under this subsection is in the judicial district in which (A) the motor carrier has its principal office, (B) the motor carrier was authorized to provide transportation under subtitle IV of this title when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

49 USC 522.

#### **§ 522. Reporting and record keeping violations**

(a) A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than \$5,000.

49 USC 523.

#### **§ 523. Unlawful disclosure of information**

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

#### **§ 524. Evasion of regulation of motor carriers**

49 USC 524.

A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation of motor carriers under this chapter shall be fined at least \$200 but not more than \$500 for the first violation and at least \$250 but not more than \$2,000 for a subsequent violation.

#### **§ 525. Disobedience to subpoenas**

49 USC 525.

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpoena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least \$100 but not more than \$5,000, imprisoned for not more than one year, or both.

#### **§ 526. General criminal penalty when specific penalty not provided**

49 USC 526.

When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this chapter, or a regulation or order of the Secretary of Transportation under this chapter, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least \$100 but not more than \$500 for the first violation and at least \$200 but not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

## **SUBTITLE II—TRANSPORTATION PROGRAMS**

### **PART A—[RESERVED—REGIONAL RAIL REORGANIZATION]**

### **PART B—[RESERVED—OTHER RAIL PROGRAMS]**

### **PART C—MOTOR VEHICLES**

#### **CHAPTER**

#### **31. MOTOR CARRIER SAFETY .....**

#### **Sec.**

#### **3101**

**PART D—[RESERVED—AVIATION]****PART E—[RESERVED—AVIATION FACILITIES AND NOISE ABATEMENT]****PART F—[RESERVED—MISCELLANEOUS]****[PARTS A AND B—RESERVED]****PART C—MOTOR VEHICLES****CHAPTER 31—MOTOR CARRIER SAFETY**

Sec.

3101. Definitions.

3102. Requirements for qualifications, hours of service, safety, and equipment standards.

3103. Research, investigation, and testing.

3104. Identification of motor vehicles.

49 USC 3101.

**§ 3101. Definitions**

In this chapter—

(1) “migrant worker” means an individual going to or from employment in agriculture as defined in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) or section 203(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

49 USC 10102.

(2) “motor carrier”, “motor common carrier”, “motor private carrier”, “motor vehicle”, and “United States” have the same meanings given those terms in section 10102 of this title.

49 USC 10521.

(3) “motor carrier of migrant workers” means a person (except a motor common carrier) providing transportation referred to in section 10521(a) of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment, but the term does not include a migrant worker providing transportation for migrant workers and their immediate families.

49 USC 3102

**§ 3102. Requirements for qualifications, hours of service, safety, and equipment standards**

(a) This section applies to transportation—

49 USC 10521,  
10522.

(1) described in sections 10521 and 10522 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

- (1) at least 75 miles; and
- (2) across the boundary of a State, territory, or possession of the United States.

**§ 3103. Research, investigation, and testing**

49 USC 3103.

(a) The Secretary of Transportation may investigate and report on the need for Federal regulation of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter II of chapter 105 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the United States Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

**§ 3104. Identification of motor vehicles**

49 USC 3104.

(a) The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 3102(c) of this title (except a motor contract carrier); and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

**[PARTS D-F—RESERVED]****TRANSFER OF FUNCTIONS**

SEC. 2. (a) The Federal-Aid Highway Act of 1966 (Public Law 89-574, 80 Stat. 766), the Federal-Aid Highway Act of 1962 (Public Law 87-866, 76 Stat. 1145), the Federal-Aid Highway Act of 1954 (ch. 181, 68 Stat. 70), the Act of September 26, 1961 (Public Law 87-307, 75 Stat. 670), the Highway Revenue Act of 1956 (ch. 462, 70 Stat. 387), the Highway Beautification Act of 1965 (Public Law 89-285, 79 Stat. 1028), the Alaska Omnibus Act (Public Law 86-70, 73 Stat. 141), the Joint Resolution of August 28, 1965 (Public Law 89-139, 79 Stat. 578), the Act of April 27, 1962 (Public Law 87-441, 76 Stat. 59), and the Highway Safety Act of 1966 (Public Law 89-564, 80 Stat. 731) are amended by striking out the words "Secretary of Commerce" wherever they appear and substituting "Secretary of Transportation".

(b) Reorganization Plan No. 7 of 1949 (5 App. U.S.C.) is amended by striking out the words "Department of Commerce" and "Secretary of Commerce" and substituting "Department of Transportation" and "Secretary of Transportation", respectively.

(c) The Act of March 19, 1918 (15 U.S.C. 261-264), the Act of March 4, 1921 (15 U.S.C. 265), and the Uniform Time Act of 1966 (15 U.S.C. 260, 260a, 261-263, 266, 267) are amended by striking out the

23 USC 101 note,  
106 note, 108  
note.  
23 USC 307 note.

23 USC 120 note,  
307 note.  
23 USC 131 note,  
135 note.  
48 USC note  
prec. 21.  
23 USC 101 note.  
23 USC 402 note.

words "Interstate Commerce Commission" wherever they appear and substituting "Secretary of Transportation".

(d)(1) Section 7 of the Act of March 4, 1915 (33 U.S.C. 471), rule 9 of section 1 of the Act of February 8, 1895 (33 U.S.C. 258), section 5 of the Act of August 18, 1894 (33 U.S.C. 499), sections 7 and 13 of the Act of June 21, 1940 (33 U.S.C. 517 and 523), the Act of August 21, 1935 (33 U.S.C. 503-507), the Act of March 23, 1906 (33 U.S.C. 491-498), and the General Bridge Act of 1946 (33 U.S.C. 525-533) are amended by striking out the words "Secretary of War" wherever they appear and substituting "Secretary of Transportation".

(2) The 5th paragraph of section 1 of the Act of June 21, 1940 (33 U.S.C. 511), is amended to read as follows:

"The term 'Secretary' means the Secretary of Transportation."

(3) Section 502(c) of the General Bridge Act of 1946 (33 U.S.C. 525(c)) is amended further by striking out the words "Public Roads Administration" and substituting "Secretary of Transportation".

(e)(1) Section 2(h) of the Oil Pollution Act, 1961 (33 U.S.C. 1001(h)) is amended to read as follows:

"(h) The term 'Secretary' means the Secretary of Transportation."

33 USC 1001  
note.

(2) The amendment made by paragraph (1) of this subsection is repealed when the amendment to section 2(h) of the Oil Pollution Act, 1961, made by section 2(1)(F) of the Oil Pollution Act Amendments of 1973 (Public Law 93-119; 87 Stat. 424), becomes effective.

(f) Section 9 of the Act of March 3, 1899 (33 U.S.C. 401), is amended to read as follows:

"SEC. 9. It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of Transportation, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of Transportation or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."



## CONFORMING EXECUTIVE PAY SCHEDULE PROVISIONS

SEC. 3. Title 5, United States Code, is amended as follows:

(1) In section 5313, add at the end thereof the following new item:

“Administrator, Federal Highway Administration.”

(2) In section 5314, strike out “Administrator, Federal Highway Administration.” and substitute “Administrator of the National Highway Traffic Safety Administration.”

(3) In section 5315, strike out “Director of Public Roads.” and substitute “Deputy Federal Highway Administrator.”

(4) In section 5316, strike out “Director, National Highway Safety Bureau.” and substitute “Assistant Federal Highway Administrator.”

(5) In section 5316, strike out “Director, National Traffic Safety Bureau.” and substitute “Deputy Administrator of the National Highway Traffic Safety Administration.”

## CONFORMING PROVISIONS

SEC. 4. (a) Section 103 of the Water Resources Planning Act (42 U.S.C. 1962a-2) is amended—

(1) by inserting the subsection designation “(a)” at the beginning of the text of the section; and

(2) by adding at the end of the section the following new subsection:

“(b) The Council shall develop standards and criteria for economic evaluation of water resource projects. For the purpose of those standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway. ‘Savings to shippers’ means the difference between (1) the freight rates or charges prevailing at the time of the study for the movement by the alternative means, and (2) those which would be charged on the proposed waterway. Estimated traffic that would use the waterway will be based on those freight rates, taking into account projections of the economic growth of the area.”

Standards and criteria.

“Savings to shippers.”

(b) Effective October 17, 1978—

(1) section 202(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 39) is repealed;

49 USC 1 note.

(2) sections 304(j) and 603 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236, 87 Stat. 985) are repealed;

45 USC 744, 793.

(3) section 4(d) of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1470), is amended by striking out “chapter 169” and substituting “chapter 292”; and

49 USC note prec. 10101.

(4) section 10504 of title 49 is amended by adding at the end of the section the following new subsection:

“(c) Notwithstanding subsection (b) of this section, a local public body, described in subsection (b), is subject to applicable laws of the United States related to—

“(1) safety;

“(2) the representation of employees for collective bargaining; and

“(3) employment retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.”

(c) Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) is amended by adding at the end thereof the following new sentence: "The Secretary may, subject to such regulations, supervision, and review as he may prescribe, from time to time make such provision as he shall deem appropriate authorizing the performance by a Federal department or agency, with the consent of the department or agency, of any function under this subsection."

#### CONFORMING CROSS-REFERENCES

SEC. 5. (a) Title 11, United States Code, is amended as follows:

(1) In item 1166 of the analysis of chapter 11, strike out "Interstate Commerce Act" and substitute "subtitle IV of title 49".

(2) In section 1166—

(A) in the catchline, strike out "Interstate Commerce Act" and substitute "subtitle IV of title 49"; and

(B) in the text, strike out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and substitute "subtitle IV of title 49".

(3) In section 1169, strike out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and substitute "subtitle IV of title 49".

(b) Section 42(e) of title 14, United States Code, is amended by striking out "section 9(d)(1) of the Department of Transportation Act (80 Stat. 944; 49 U.S.C. 1657)" and substituting "section 324(d) of title 49".

(c) Section 2341(3) of title 18, United States Code, is amended by striking out "the Interstate Commerce Act" and substituting "subtitle IV of title 49".

(d) Title 23, United States Code, is amended as follows:

(1) In section 117(e), strike out "section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))" and substitute "section 303 of title 49".

(2) In the analysis of chapter 3, strike out item 303.

(3) In section 322(a), strike out ", conducted under authority of the Act entitled 'An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes', approved September 30, 1965 (49 U.S.C. 1631 et seq.)".

(e) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7701(a)(33)(F), strike out "part III of the Interstate Commerce Act" and substitute "subchapter III of chapter 105 of title 49".

(2) In section 7701(a)(33)(H), strike out "part I of the Interstate Commerce Act" and substitute "subchapter I of chapter 105 of title 49".

(f) Section 1337 (a) and (b) of title 28, United States Code, is amended by striking out "section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319)" and substituting "section 11707 of title 49".

(g) Subtitle IV of title 49, United States Code, is amended as follows:

(1) In section 10526(a)(5), strike out "section 1141j(a) of title 12" and substitute "section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))".

- (2) In section 10544(d)(1)(B), strike out “chapters 23 and 23A of title 46” and substitute “the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848)”. 49 USC 10544.
- (3) In section 10562(1), strike out “section 1141j(a) of title 12” and substitute “section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))”.
- (4) In the first sentence of section 10705(c), strike out “subtitle” and substitute “title”.
- (5) In section 10703(a)(4)(D)(ii), strike out “section 801 or sections 843-849 of title 46” and substitute “section 1 of the Shipping Act, 1916 (46 U.S.C. 801) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848)”.
- (6) In section 10925(d)(1), strike out “certificate” and substitute “certificate or permit”.
- (7) In section 11346(a), strike out “section 1654(c)” and substitute “section 333(c)”.
- (8) In section 11348(a)—  
 (A) insert “504(f),” immediately before “10764”; and  
 (B) strike out “11711.”
- (9) In section 11361(b), strike out “section 205” and substitute “subchapter IV”.

#### LEGISLATIVE PURPOSE AND CONSTRUCTION

- SEC. 6. (a) Sections 1-5 of this Act restate, without substantive change, laws enacted before November 15, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after November 14, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency. 49 USC note prec. 101.
- (b) A reference to a law replaced by sections 1-5 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.
- (c) An order, rule, or regulation in effect under a law replaced by sections 1-5 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.
- (d) An action taken or an offense committed under a law replaced by sections 1-5 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.
- (e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.
- (f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

#### REPEALS

- SEC. 7. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal. 49 USC note prec. 101.
- (b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Public Law 97-450  
97th Congress

An Act

Jan. 12, 1983  
[H.R. 5029]

To designate the Federal Building in Fresno, California, as the "B. F. Sisk Federal Building".

B.F. Sisk Federal  
Building.  
Designation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the building located at 1130 O Street, Fresno, California 93721, known as the Federal Building, shall hereafter be known and designated as the "B. F. Sisk Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "B. F. Sisk Federal Building".

Approved January 12, 1983.

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LEGISLATIVE HISTORY—H.R. 5029:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
Dec. 17, considered and passed House.  
Dec. 21, considered and passed Senate.

Public Law 97-451  
97th Congress

An Act

To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

Jan. 12, 1983  
[H.R. 5121]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal Oil and  
Gas Royalty  
Management  
Act of 1982.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the “Federal Oil and Gas Royalty Management Act of 1982”.

30 USC 1701  
note.

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

- Sec. 101. Duties of the Secretary.
- Sec. 102. Duties of lessees, operators, and motor vehicle transporters.
- Sec. 103. Required recordkeeping.
- Sec. 104. Prompt disbursement of royalties.
- Sec. 105. Explanation of payments.
- Sec. 106. Liabilities and bonding.
- Sec. 107. Hearings and investigations.
- Sec. 108. Inspections.
- Sec. 109. Civil penalties.
- Sec. 110. Criminal penalties.
- Sec. 111. Royalty interest, penalties and payments.
- Sec. 112. Injunction and specific enforcement authority.
- Sec. 113. Rewards.
- Sec. 114. Noncompetitive oil and gas lease royalty rates.

TITLE II—STATES AND INDIAN TRIBES

- Sec. 201. Application of title.
- Sec. 202. Cooperative agreements.
- Sec. 203. Information.
- Sec. 204. State suits under Federal law.
- Sec. 205. Delegation to States.
- Sec. 206. Shared civil penalties.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Secretarial authority.
- Sec. 302. Reports.
- Sec. 303. Study of other minerals.
- Sec. 304. Relation to other laws.
- Sec. 305. Effective date.
- Sec. 306. Funding.
- Sec. 307. Statute of limitations.
- Sec. 308. Expanded royalty obligations.
- Sec. 309. Severability.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF  
UNPATENTED OIL PLACER CLAIMS

- Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

## FINDINGS AND PURPOSES

30 USC 1701.

## SEC. 2. (a) Congress finds that—

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

## (b) It is the purpose of this Act—

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system.

## DEFINITIONS

30 USC 1702.

## SEC. 3. For the purposes of this Act, the term—

(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indi-

ans, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) "person" means any individual, firm, corporation, association, partnership, consortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee; and

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

43 USC 1801  
note.

## TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

### DUTIES OF THE SECRETARY

**SEC. 101.** (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other pay-

Comprehensive  
accounting and  
auditing.  
30 USC 1711.

ments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall—

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this Act.

Lease accounts,  
audits.

(c)(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and record-keeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

Contract  
authority.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

Availability of  
Secretary's  
material.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

#### DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

30 USC 1712.

##### SEC. 102. (a) A lessee—

(1) who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary; and

(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or under the mineral leasing laws.

##### (b) An operator shall—

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum stand-



ards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

#### REQUIRED RECORDKEEPING

SEC. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

30 USC 1713.

Record, report or information inspection and duplication.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

#### PROMPT DISBURSEMENT OF ROYALTIES

SEC. 104. (a) Section 35 of the Mineral Lands Leasing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for

any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved."

Indian land  
royalty funds,  
deposits.  
30 USC 1714.

(b) Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

30 USC 1714  
note.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

#### EXPLANATION OF PAYMENTS

30 USC 1715.

SEC. 105. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

#### LIABILITIES AND BONDING

30 USC 1716.

SEC. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be—

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

#### HEARINGS AND INVESTIGATIONS

30 USC 1717.

SEC. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this Act.

In connection with any such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

Affidavits.

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

Subpena.

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

Depositions.

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to \$10,000 a day.

Refusal to obey subpoena.

#### INSPECTIONS

SEC. 108. (a)(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

30 USC 1718.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

#### CIVIL PENALTIES

Noncompliance  
with  
requirements or  
inspections.  
30 USC 1719.

#### SEC. 109. (a) Any person who—

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2) shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than \$5,000 per violation for each day such violation continues, dating from the date of such notice or report.

#### (c) Any person who—

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit;

or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3),

shall be liable for a penalty of up to \$10,000 per violation for each day such violation continues.

#### (d) Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted,

shall be liable for a penalty of up to \$25,000 per violation for each day such violation continues.

False  
information.

Stolen or  
unlawfully  
removed oil and  
gas.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

Hearing.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

Review of administrative record.

(k) If any person fails to pay an assessment of a civil penalty under this Act—

Failure to pay assessments.

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

30 USC 188.

#### CRIMINAL PENALTIES

SEC. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 2 years, or both.

30 USC 1720.

#### ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

30 USC 1721.

26 USC 6621.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

26 USC 6621.  
Interest deposit  
to Indian  
account.

(c) All interest charges collected under this Act or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be deposited to the same account as the royalty with respect to which such interest is paid.

Indian royalty  
funds, late  
deposit.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

26 USC 6621.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

15 USC 751 note.

(f) Interest shall be charged under this section only for the number of days a payment is late.

30 USC 191.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

#### INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

Civil action by  
Attorney  
General.  
30 USC 1722.

SEC. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States, which shall have jurisdiction over such actions—

(1) to restrain any violation of this Act; or

(2) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

#### REWARDS

30 USC 1723.

SEC. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursu-

ant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

#### NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on: (a) the exploration, development, or production of oil or gas; and (b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within six months after the date of enactment of this Act.

Study.

30 USC 226.

Submittal to Congress.

### TITLE II—STATES AND INDIAN TRIBES

#### APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

30 USC 1731.

#### COOPERATIVE AGREEMENTS

SEC. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

30 USC 1732.

(b) Except as provided in section 203, and pursuant to a cooperative agreement—

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

Information availability.  
Effective date.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such

41 USC 501 note.

terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

#### INFORMATION

Trade secrets  
and proprietary  
and confidential  
information,  
availability.  
30 USC 1733.

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if—

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

Liability for  
wrongful  
disclosure.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

#### STATE SUITS UNDER FEDERAL LAW

30 USC 1734.

SEC. 204. (a)(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If,



during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

#### DELEGATION TO STATES

SEC. 205. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe allottee involved.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee,

with respect to the Federal lands and Indian lands within the State.

Notification of  
Secretary and  
Attorney  
General.

30 USC 1735.

Hearing.

Regulations. (c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

Standards. (d) The Secretary shall by rule promulgate standards and regulations, pertaining to the authorities and responsibilities under subsection (a), including standards and regulations pertaining to:

(1) audits performed;

(2) records and accounts to be maintained; and

(3) reporting procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

Hearing. (e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

#### SHARED CIVIL PENALTIES

30 USC 1736. SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

### TITLE III—GENERAL PROVISIONS

#### SECRETARIAL AUTHORITY

Regulations.  
30 USC 1751. SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

Contracts. (c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

## REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

Submittal to Congress.  
30 USC 1752.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

Biennial audit, submittal to Secretary and Congress.

## STUDY OF OTHER MINERALS

SEC. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

30 USC 1752 note.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

Submittal to Congress.

## RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

30 USC 1753.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

## EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no

30 USC 1701 note.

provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.

#### FUNDING

- 30 USC 1754. SEC. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: *Provided*, That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

#### STATUTE OF LIMITATIONS

- 30 USC 1755. SEC. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

#### EXPANDED ROYALTY OBLIGATIONS

- 30 USC 1756. SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

#### SEVERABILITY

- 30 USC 1757. SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

### TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

#### AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

- 30 USC 226. “(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter

as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

“(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

“(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

*Ante*, p. 2447.

“(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

“(i.) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

“(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of—

“(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

“(ii) fifteen months after termination of the lease.

“(e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

Reinstatement conditions.

“(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however*, That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

“(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than \$10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary;

30 USC 226.

“(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16 $\frac{2}{3}$  percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty

determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

30 USC 226.

“(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16½ percent: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

Notice,  
publication in  
Federal  
Register.

“(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

Copy, submittal  
to congressional  
committees.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

Cost of  
publication in  
Federal  
Register.

“(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

30 USC 226.

“(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

*Ante*, p. 2447.

“(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

“(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the deter-

mination of the abandonment of the oil placer mining claim;

“(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

“(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than \$5 per acre per year;

“(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

“(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

“(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

30 USC 226.

“(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

“(h) The minimum royalty provisions of section 17(j) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

30 USC 209.

“(i)(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

“(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judg-

ment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason."

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 5121 (S. 2305):**

HOUSE REPORT No. 97-859 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-512 accompanying S. 2305 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Dec. 6, considered and passed Senate, amended, in lieu of S. 2305.

Dec. 13, House concurred in Senate amendments with an amendment.

Dec. 16, Senate concurred in House amendment with an amendment.

Dec. 18, House concurred in Senate amendment with an amendment.

Dec. 21, Senate disagreed to House amendment; House receded from its amendment and concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 2 (1983):

Jan. 12, Presidential statement.



**Public Law 97-452**  
**97th Congress**

**An Act**

To codify without substantive change recent laws related to money and finance and to improve the United States Code.

**Jan. 12, 1983**

**[H.R. 7378]**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Money and  
finance.  
United States  
Code,  
amendments.

**AMENDMENTS TO TITLE 31**

**SECTION 1.** Title 31, United States Code, is amended as follows:

(1)(A) Chapter 5 is amended by inserting the following after section 503:

**“§ 504. Office of Federal Procurement Policy**

31 USC 504.

“The Office of Federal Procurement Policy, established under section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404(a)), is an office in the Office of Management and Budget.”.

(B) The analysis of chapter 5 is amended by inserting the following immediately below item 503:

“504. Office of Federal Procurement Policy.”.

(2) Section 1105(a) is amended by adding at the end the following:

*Ante*, p. 908.

“(25) a separate statement, for each agency having an Office of Inspector General, of the amount of the appropriation requested for the Office.”.

(3) Section 1113(a) is amended by—

*Ante*, p. 914.

(A) inserting “(1)” after “(a)”; and

(B) adding at the end the following:

“(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.”.

(4) Section 1305(6) is amended to read as follows:

*Ante*, p. 918.

“(6) to pay the interest on the fund derived from the bequest of James Smithson, for the construction of buildings and expenses of the Smithsonian Institution, at the rates determined under section 5590 of the Revised Statutes (20 U.S.C. 54).”.

(5) Section 3102(a) is amended by striking out “\$70,000,000,000” and substituting “\$110,000,000,000”.

*Ante*, p. 938.

(6) Section 3105(b) is amended to read as follows:

*Ante*, p. 940.

“(b)(1) With the approval of the President and except as provided in paragraph (2) of this subsection, the Secretary may—

Savings bonds.

“(A) fix the investment yield for savings bonds; and

“(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

"(2) The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issue of the bond and ending on the last day of the month before the date of redemption.

Regulations.

"(3) With the approval of the President, the Secretary may prescribe regulations providing that—

"(A) owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

"(B) series E and H savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1)."

*Ante*, p. 940.

(7) Section 3105(c)(5) is amended by striking out "(expressed in terms of the maturity value)".

(8) Section 3106(b) is amended by striking out the first sentence.

*Ante*, p. 944.

(9) Section 3121 is amended by adding at the end the following:

"Registration-  
required  
obligation."

"(g)(1) In this subsection, 'registration-required obligation' means an obligation except an obligation—

"(A) not of a type offered to the public;

"(B) having a maturity (at issue) of not more than one year; or

"(C) described in paragraph (2) of this subsection.

"(2) An obligation is not a registration-required obligation if—

"(A) there are arrangements reasonably designed to ensure that the obligation will be sold (or resold in connection with the original issue) only to a person that is not a United States person; and

"(B) for an obligation not in registered form—

"(i) interest on the obligation is payable only outside the United States and its territories and possessions; and

"(ii) a statement is on the face of the obligation that a United States person holding the obligation is subject to limitations under the United States income tax laws.

"(3) Every registration-required obligation of the Government shall be in registered form. A book entry obligation is deemed to be in registered form if the right to principal and stated interest on the obligation may be transferred only through a book entry consistent with regulations of the Secretary.

Regulations.

"(4) The Secretary shall prescribe regulations necessary to carry out this subsection when there is a nominee."

*Ante*, p. 948.

*Post*, p. 2473.

(10) Section 3302(b) is amended by striking out "An" and substituting "Except as provided in section 3718(b) of this title, an".

*Ante*, p. 955.

(11) Section 3331 is amended by adding at the end the following:

"(f) Under conditions the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may delegate those duties and powers to an officer or employee of the agency."

*Ante*, p. 959.

(12) Section 3512 is amended by redesignating subsections (b)-(d) as subsections (d)-(f), respectively, and by inserting the following immediately below subsection (a):

“(b)(1) To ensure compliance with subsection (a)(3) of this section and consistent with standards the Comptroller General prescribes, the head of each executive agency shall establish internal accounting and administrative controls that reasonably ensure that—

“(A) obligations and costs comply with applicable law;

“(B) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and

“(C) revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

“(2) Standards the Comptroller General prescribes under this subsection shall include standards to ensure the prompt resolution of all audit findings.

“(c)(1) In consultation with the Comptroller General, the Director of the Office of Management and Budget—

Guidelines.

“(A) shall establish by December 31, 1982, guidelines that the head of each executive agency shall follow in evaluating the internal accounting and administrative control systems of the agency to decide whether the systems comply with subsection (b) of this section; and

“(B) may change a guideline when considered necessary.

“(2) By December 31 of each year (beginning in 1983), the head of each executive agency, based on an evaluation conducted according to guidelines prescribed under paragraph (1) of this subsection, shall prepare a statement on whether the systems of the agency comply with subsection (b) of this section, including—

“(A) if the head of an executive agency decides the systems do not comply with subsection (b) of this section, a report identifying any material weakness in the systems and describing the plans and schedule for correcting the weakness; and

“(B) a separate report on whether the accounting system of the agency conforms to the principles, standards, and requirements the Comptroller General prescribes under section 3511(a) of this title.

*Ante*, p. 959.

“(3) The head of each executive agency shall sign the statement and reports required by this subsection and submit them to the President and Congress. The statement and reports are available to the public, except that information shall be deleted from a statement or report before it is made available if the information specifically is—

Statement and reports submittal to President and Congress.  
Public availability.

“(A) prohibited from disclosure by law; or

“(B) required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.”.

(13)(A) Section 3701 is amended to read as follows:

#### “§ 3701. Definitions and application

31 USC 3701.

“(a) In this chapter—

“(1) ‘administrative offset’ means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

“(2) ‘calendar quarter’ means a 3-month period beginning on January 1, April 1, July 1, or October 1.

“(3) ‘consumer reporting agency’ means—

“(A) a consumer reporting agency as that term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

“(B) a person that, for money or on a cooperative basis, regularly—

“(i) gets information on consumers to give the information to a consumer reporting agency; or

“(ii) serves as a marketing agent under an arrangement allowing a third party to get the information from a consumer reporting agency.

“(4) ‘executive or legislative agency’ means a department, agency, or instrumentality in the executive or legislative branch of the Government.

“(5) ‘military department’ means the Departments of the Army, Navy, and Air Force.

“(6) ‘system of records’ has the same meaning given that term in section 552a(a)(5) of title 5.

“(7) ‘uniformed services’ means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service.

*Ante*, p. 971.

“(b) In subchapter II of this chapter, ‘claim’ includes amounts owing on account of loans insured or guaranteed by the Government and other amounts due the Government.

*Post*, pp. 2471, 2472.

“(c) In sections 3716 and 3717 of this title, ‘person’ does not include an agency of the United States Government, of a State government, or of a unit of general local government.

*Infra*; *post*, pp. 2471-2473.

“(d) Sections 3711(f) and 3716-3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), or the tariff laws of the United States.”

(B) Item 3701 in the analysis of chapter 37 is amended to read as follows:

“3701. Definitions and application.”

*Ante*, p. 970.

(14) Section 3702(b)(2) is amended by inserting “this” before “subsection”.

*Ante*, p. 971.

(15) Section 3711 is amended by adding at the end the following:

Claims,  
collection.  
Information  
disclosure.

“(f)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

“(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

“(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

“(C) the head of the agency has notified the individual in writing—

“(i) that payment of the claim is overdue;

“(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the individual is responsible for the claim;

“(iii) of the specific information to be disclosed to the consumer reporting agency; and

“(iv) of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

“(D) the individual has not—

“(i) repaid or agreed to repay the claim under a written repayment plan that the individual has signed and the head of the agency has agreed to; or

“(ii) filed for review of the claim under paragraph (2) of this subsection;

“(E) the head of the agency has established procedures to—

“(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

“(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

“(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

“(F) the information disclosed to the consumer reporting agency is limited to—

“(i) information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

“(ii) the amount, status, and history of the claim; and

“(iii) the agency or program under which the claim arose.

“(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive or legislative agency shall provide, on request of an individual alleged by the agency to be responsible for the claim, for a review of the obligation of the individual, including an opportunity for reconsideration of the initial decision on the claim.

“(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive or legislative agency shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).”.

(16)(A) Subchapter II of chapter 37 is amended by adding at the end the following:

**“§ 3716. Administrative offset**

31 USC 3716.

“(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

*Ante*, p. 971.

“(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

“(2) an opportunity to inspect and copy the records of the agency related to the claim;

	“(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and “(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.
Regulations.	“(b) Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on— “(1) the best interests of the United States Government; “(2) the likelihood of collecting a claim by administrative offset; and “(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.
Limitations.	“(c) This section does not apply— “(1) to a claim under this subchapter that has been outstanding for more than 10 years; or “(2) when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.
31 USC 3717.	“§ 3717. Interest and penalty on claims “(a)(1) The head of an executive or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter. “(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points. “(b) Interest under subsection (a) of this section accrues from the date— “(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or “(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or legislative agency, if notice is first mailed after October 24, 1982. “(c) The rate of interest charged under subsection (a) of this section— “(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and “(2) remains fixed at that rate for the duration of the indebtedness. “(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive or legislative agency may extend the 30-day period. “(e) The head of an executive or legislative agency shall assess on a claim owed by a person—
Publication. Effective date.	

“(1) a charge to cover the cost of processing and handling a delinquent claim; and

“(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due. Penalty.

“(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

“(g) This section does not apply— Limitations.

“(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

“(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

“(h) In conformity with standards prescribed jointly by the Attorney General and the Comptroller General, the head of an executive or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section. Regulations.

#### “§ 3718. Contracts for collection services 31 USC 3718.

“(a) Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government. The contract shall provide that—

“(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

“(2) the person is subject to—

“(A) section 552a of title 5, to the extent provided in section 552a(m); and

“(B) laws and regulations of the United States Government and State governments related to debt collection practices.

“(b) Notwithstanding section 3302(b) of this title, a contract under subsection (a) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered. Ante, p. 948.

“(c) A contract under subsection (a) of this section is effective only to the extent and in the amount provided in an appropriation law.

“(d) This section does not apply to the collection of debts under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

#### “§ 3719. Reports on debt collection activities 31 USC 3719.

“(a) In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and submit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency. The report shall contain— Regulations.

“(1) information on—

“(A) the total amount of loans and accounts receivable owed the agency and when amounts owed the agency are due to be repaid;

“(B) the total amount of receivables and number of claims at least 30 days past due;

“(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

“(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

“(E) the total number of claims and the total amount collected; and

“(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

“(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

“(3) other information the Director considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

“(b) The Director shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Director under subsection (a).”

(B) The analysis of subchapter II of chapter 37 is amended by adding at the end the following:

“3716. Administrative offset.

“3717. Interest and penalty on claims.

“3718. Contracts for collection services.

“3719. Reports on debt collection activities.”

*Ante*, p. 973.

(17) Section 3721(b) is amended by striking out “\$15,000” and substituting “\$25,000”.

(18)(A) Subtitle III is amended by adding at the end the following:

#### “CHAPTER 39—PROMPT PAYMENT

“Sec.

“3901. Definitions and application.

“3902. Interest penalties.

“3903. Regulations.

“3904. Limitations on discount payments.

“3905. Reports.

“3906. Relationship to other laws.

31 USC 3901.

#### “§ 3901. Definitions and application

“(a) In this chapter—

“(1) ‘agency’ has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

“(2) ‘business concern’ means—

“(A) a person carrying on a trade or business; and

“(B) a nonprofit entity operating as a contractor.

“(3) ‘proper invoice’ is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.



“(4) the head of an agency is deemed to receive an invoice on the later of the dates that—

“(A) the designated payment office or finance center of the agency actually receives a proper invoice; or

“(B) the head of the agency accepts the applicable property or service.

“(5) a payment is deemed to be made on the date a check for the payment is dated.

“(6) a contract to rent property is deemed to be a contract to acquire the property.

“(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

Tennessee  
Valley  
Authority.

#### “§ 3902. Interest penalties

31 USC 3902.

“(a) Under regulations prescribed under section 3903 of this title, the head of an agency acquiring property or service from a business concern, who does not pay the concern for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary shall publish each rate in the Federal Register.

Publication in  
Federal  
Register.

“(b) Except as provided in section 3906 of this title, the interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made. However, a penalty may not be paid if payment for the item is made—

“(1) when the item is a meat or meat food product described in section 3903(2)(A) of this title, before the 4th day after the required payment date;

“(2) when the item is an agricultural commodity described in section 3903(2)(B) of this title, before the 6th day after the required payment date; or

“(3) when the item is not an item referred to in clauses (1) and (2) of this subsection, before the 16th day after the required payment date.

“(c) An amount of an interest penalty unpaid after any 30-day period shall be added to the principal amount of the debt, and a penalty accrues thereafter on the added amount.

“(d) This section does not authorize the appropriation of additional amounts to pay an interest penalty. The head of an agency shall pay a penalty under this section out of amounts made available to carry out the program for which the penalty is incurred.

“(e) A recipient of a grant from the head of an agency may provide in a contract for the acquisition of property or service from a business concern that, consistent with the usual business practices of the recipient and applicable State and local law, the recipient will pay an interest penalty on amounts overdue under the contract under conditions agreed to by the recipient and the concern. The recipient may not pay the penalty from amounts received from an agency. Amounts expended for the penalty may not be counted toward a matching requirement applicable to the grant. An obligation to pay the penalty is not an obligation of the United States Government.

31 USC 3903.

**“§ 3903. Regulations**

“The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title. The regulations shall—

“(1) provide that the required payment date is—

“(A) the date payment is due under the contract for the item of property or service provided; or

“(B) 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;

“(2) for the acquisition of meat or a meat food product (as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3))), provide a required payment date of not later than 7 days after the meat or meat food product is delivered; and

“(3) for the acquisition of a perishable agricultural commodity (as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4))), provide a required payment date consistent with that Act;

“(4) provide separate required payment dates for a contract under which property or service is provided in a series of partial executions or deliveries to the extent the contract provides for separate payments for partial execution or delivery; and

“(5) require that, within 15 days after an invoice is received, the head of an agency notify the business concern of a defect or impropriety in the invoice that would prevent the running of the time period specified in clause (1)(B) of this section.

31 USC 3904.

**“§ 3904. Limitations on discount payments**

“The head of an agency offered a discount by a business concern from an amount due under a contract for property or service in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. The head of the agency shall pay an interest penalty on an amount remaining unpaid in violation of this section. The penalty accrues as provided under sections 3902 and 3903 of this title, except that the required payment date for the unpaid amount is the last day specified in the contract that the discounted amount may be paid.

Penalty.

31 USC 3905.

**“§ 3905. Reports**

“(a) By the 60th day after the end of each fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on interest penalty payments made under this chapter during that fiscal year. The report shall include the number, amounts, and frequency of the payments and the reasons the payments were not avoided by prompt payment.

“(b) By the 120th day after the end of each fiscal year, the Director shall submit to the Committees on Governmental Affairs, Appropriations, and Small Business of the Senate and the Committees on Government Operations, Appropriations, and Small Business of the House of Representatives a report on agency compliance with this chapter. The report shall include a summary of the report of each agency submitted under subsection (a) of this section and an analysis of progress made in reducing interest penalty payments by that agency from prior years.

**“§ 3906. Relationship to other laws**

31 USC 3906.

“(a) A claim for an interest penalty not paid under this chapter may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

“(b)(1) An interest penalty under this chapter does not continue to accrue—

“(A) after a claim for a penalty is filed under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.); or

“(B) for more than one year.

“(2) Paragraph (1) of this subsection does not prevent an interest penalty from accruing under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after a penalty stops accruing under this chapter. A penalty accruing under section 12 may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

“(c) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and interest payable for the period during which the dispute is being resolved, is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).”

(B) The analysis of subtitle III is amended by inserting the following immediately below item 37:

“39. PROMPT PAYMENT..... 3901”.

(19) Section 5103 is amended by inserting “, public charges, taxes, and dues” after “debts” the first time it appears.

Ante, p. 980.

(20) Section 5112(f)(1) is amended—

Ante, p. 981.

(A) by inserting in the matter before clause (A), a comma after “10,000,000”; and

(B) by striking out of clause (C) “two hundred and fiftieth” and substituting “250th”.

(21) Section 5132(a)(2) is amended by striking out “\$54,706,000” and “1982” and substituting “\$50,165,000” and “1983”, respectively.

Ante, p. 988.

(22) Section 5154 is amended by striking out “United States coins and currency circulating within its jurisdiction” and substituting “other forms of money”.

Ante, p. 992.

(23)(A) Chapter 61 is amended by inserting after section 6102 the following:

**“§ 6102a. Assistance awards information system**

31 USC 6102a.

“(a) The Director of the Office of Management and Budget shall—

“(1) maintain the United States Government assistance awards information system established as a result of the study conducted under section 9 of the Federal Program Information Act; and

“(2) update the system on a quarterly basis.

31 USC 1701 note.

“(b) To carry out subsection (a) of this section, the Director—

Ante, p. 877.

“(1) may delegate the responsibility for carrying out subsection (a) of this section to the head of another executive agency;

“(2) shall review a report the head of an agency submits to the Director on the method of carrying out subsection (a) of this section; and

“(3) may validate, by appropriate means, the method by which an agency prepares the report.”

(B) The analysis of chapter 61 is amended by inserting immediately below item 6102 the following:

"6102a. Assistance awards information system."

*Ante*, p. 1005.

(24) Section 6501(1)(B) is amended by striking out "the law of".

*Ante*, p. 1018.

(25) Section 6709(a) is amended by adding at the end the following:

"(5) For quarterly payments made for quarters beginning after December 31, 1982, the New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of general local government in New Jersey in each of the years beginning January 1, 1980, January 1, 1981, and January 1, 1982, are deemed to be an adjusted tax of the unit under paragraph (2) of this subsection."

*Ante*, p. 1041.

(26) Section 9101 is amended by striking out "(K) the National Consumer Cooperative Bank."

*Ante*, pp. 1044,  
1045.

(27) Sections 9107(c)(3) and 9108(d)(2) are each amended by striking out "the National Consumer Cooperative Bank,".

#### CONFORMING AND TECHNICAL PROVISIONS

SEC. 2. (a) Title 5, United States Code, is amended as follows:

*Ante*, p. 1749.

(1) In section 552a(b) and (m), strike out "section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d))" and substitute "section 3711(f) of title 31".

*Ante*, p. 1751.

(2) In section 5514(a)(3), strike out "the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)" and substitute "sections 3711 and 3716-3718 of title 31".

*Ante*, p. 1752.

(b) Section 1114 of title 18 is amended by striking out "the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)" and substituting "sections 3711 and 3716-3718 of title 31".

(c) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

26 USC 405, 409.

(1) Sections 405(b)(1) and 409(a) are each amended by striking out "the Second Liberty Bond Act, as amended" and "Act" and substituting "chapter 31 of title 31" and "chapter", respectively.

26 USC 454.

(2) Section 454(c)(2) is amended by striking out "the Second Liberty Bond Act" and substituting "chapter 31 of title 31".

26 USC 1037.

(3) Section 1037(a) is amended by striking out "the Second Liberty Bond Act" and "Act" and substituting "chapter 31 of title 31" and "chapter", respectively.

*Ante*, p. 1753.

(4) Section 6103(m)(2) is amended by striking out "section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)" wherever appearing and substituting "sections 3711, 3717, and 3718 of title 31".

*Ante*, p. 55.

(d) Title 28, United States Code, is amended as follows:

(1) Section 1961(b) is amended by striking out "section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substituting "section 1304(b) of title 31".

*Ante*, p. 1754.

(2) Section 2415 of title 28 is amended by striking out "section 5 of the Federal Claims Collection Act of 1966" and substituting "section 3716 of title 31".

(e) Title 38, United States Code, is amended as follows:

(1) Section 210(b)(2)(A) is amended by striking out "section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))" and substituting "section 1105 of title 31".

- (2) Section 1823(c) is amended by striking out “the Second Liberty Bond Act” wherever appearing and substituting “chapter 31 of title 31”. 38 USC 1823.
- (3) Section 4207 is amended by striking out “section 3523 of title 31” and substituting “chapter 35 of title 31”. *Ante*, p. 1312.
- (4) Sections 5010(a)(1) and 5011(f) are each amended by striking out “section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))” and substituting “section 1105 of title 31”. 38 USC 5010, *ante*, p. 70.
- (f) Section 2007 of title 39, United States Code, is amended by striking out “the Second Liberty Bond Act” wherever appearing and substituting “chapter 31 of title 31”.
- (g) The amendment made by section 1(17) of this Act applies only to claims arising after July 27, 1982. Effective dates. 31 USC 3721 note.
- (h) The amendment made by section 1(25) of this Act is effective after December 31, 1982, only if the Governor of New Jersey notifies the Secretary of the Treasury that, before January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for the collection and retention of those taxes by units of general local government for years beginning as of January 1, 1983. 31 USC 6709 note.
- (i) The amendments made by section 1(11), (14), (19), (22), (24), (26), and (27) are effective as of September 13, 1982. 31 USC 3331 note.

## LEGISLATIVE PURPOSE AND CONSTRUCTION

- SEC. 3. (a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before December 1, 1982, that were replaced by those sections. Sections 1 and 2 may not be construed as making a substantive change in the laws replaced. Laws enacted after November 30, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency. 31 USC note prec. 101.
- (b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.
- (c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.
- (d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.
- (e) An inference of a legislative construction is not to be drawn by reason of the location in the United State Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.
- (f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

## REPEALS

- SEC. 4. (a) The repeal of a law enacted by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal. 31 USC note prec. 101.

Public Law 97-453  
97th Congress

## An Act

To improve fishery conservation and management.

Jan. 12, 1983

[H.R. 5002]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fishery  
conservation and  
management,  
improvement.

## SECTION 1. AMENDMENT REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or subsection, the reference shall be considered to be made to a section or subsection of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (90 Stat. 331 et seq., 16 U.S.C. 1801 et seq.).

## SEC. 2. FOREIGN FISHING.

(a) Section 201 (16 U.S.C. 1821) is amended as follows:

(1) Subsection (c)(2)(D) is amended to read as follows:

"(D) United States observers required under subsection (i) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;"

(2) Subsection (c)(4) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) take, or refrain from taking, as appropriate, actions of the kind referred to in subsection (e)(1) in order to receive favorable allocations under such subsection."

(3) The first sentence of subsection (d)(4) is amended by striking out "shall be allocated" in the matter following subparagraph (B) and inserting in lieu thereof "may be allocated".

(4) Subsection (e)(1) is amended to read as follows:

"(e) ALLOCATION OF ALLOWABLE LEVEL.—(1)(A) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

"(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

"(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis

on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

“(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made—

“(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

“(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

“(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on—

“(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;

“(ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

“(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

“(iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

“(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

“(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

“(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

“(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.”.

(5)(A) Subsection (i) is amended—

(i) by amending paragraph (3) to read as follows:

“(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out

such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate.”; and

(ii) by adding at the end thereof the following new paragraph:

“(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

Supplementary  
observer  
program.

“(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

“(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

“(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

“(D) monitor the performance of observers to ensure that it meets the purposes of this Act.”.

(6) Such section is further amended by adding at the end thereof the following new subsection:

“(j) **RECREATIONAL FISHING.**—Notwithstanding any other provision of this title, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the fishery conservation zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.”.

*Post*, p. 2490.

(b) The amendments made by subsection (a)(1) and (5)(A)(ii) shall take effect January 1, 1984.

Effective date.  
16 USC 1821  
note.

### SEC. 3. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended—

(1) by inserting “hold” immediately before “capacity” in paragraph (3)(B);

(2) by striking out “and shall be set forth under the name of each Council to which it will be transmitted for comment” in that portion of paragraph (4) which precedes subparagraph (A);

(3) by striking out subparagraphs (B) and (C) of paragraph (4) and inserting in lieu thereof the following:

“(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

“(C) a copy or a summary of the application to the appropriate council, upon its request.”; and

(4) by striking out “After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall” in paragraph (5) and inserting in lieu thereof “After receiving a copy or summary of an application under paragraph (4)(C), the Council may”.



**SEC. 4. NATIONAL STANDARDS.**

Section 301(b) (16 U.S.C. 1851(b)) is amended to read as follows:  
 “(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.”.

**SEC. 5. REGIONAL FISHERY MANAGEMENT COUNCIL ORGANIZATION AND FUNCTIONS.**

Section 302 (16 U.S.C. 1852) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out “pursuant to subsection (b)(1)(C)” each place it appears therein and inserting in lieu thereof “in accordance with subsection (b)(2)”; and

(B) by amending paragraph (8) to read as follows:

“(8) **WESTERN PACIFIC COUNCIL.**—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).”.

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(C) to read as follows:

“(C) The members required to be appointed by the Secretary in accordance with subsection (b)(2).”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting immediately after paragraph (1) the following new paragraph:

“(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.

“(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge or experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

“(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.”;

(D) by striking out “pursuant to paragraph (1)(C)” in subsection (b)(3) (as redesignated by subparagraph (B)) and

Members,  
qualifications.

List of  
applicants.

Announcement  
of appointment.

inserting in lieu thereof "by the Secretary in accordance with subsection (b)(2)"; and

(E) by adding at the end thereof the following new paragraph:

"(5) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based."

Removal of member.

(3) Subsection (f)(6) is amended by inserting after the first sentence thereof the following new sentence: "The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection (i)(2)."

(4) Subsection (h) is amended as follows:

(A) Paragraph (1) is amended by inserting "that requires conservation and management" immediately after "authority".

(B) Paragraph (2) is amended by striking out "204(b)(4)(B)" and inserting in lieu thereof "204(b)(4)(C)".

(C) Paragraph (3) is amended by inserting immediately before the semicolon at the end thereof the following: "(and for purposes of this paragraph, the term 'geographical area concerned' may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area)".

(D) Paragraph (4) is amended to read as follows:

"(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary,"

Report.

(5) Such section is further amended by adding at the end thereof the following new subsection:

"(i) PROCEDURAL MATTERS.—(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils or to the scientific and statistical committees or advisory panels of the Councils.

5 USC app.

"(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council:

Meetings, guidelines.

"(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

"(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

"(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide

Publication in  
Federal  
Register.

publicity. Timely notice of each regular meeting shall also be published in the Federal Register.

"(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings.

"(E) Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

Public  
availability.  
16 USC 1853.

"(F) Subject to the procedures established by the Council under paragraph (4), and the guidelines prescribed by the Secretary under section 303(d), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council.

Closed meetings.

"(3)(A) Each Council, scientific and statistical committee, and advisory panel—

"(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

"(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested;

and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting. Subparagraphs (D) and (F) shall not apply to any meeting or portion thereof that is so closed.

"(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics."

#### SEC. 6. CONTENTS OF PLANS.

Section 303 (16 U.S.C. 1853) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region; and"

(2) Subsection (c) is amended to read as follows:

"(c) PROPOSED REGULATIONS.—The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out

a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 304 and 305.”; and

*Infra; post, p. 2490.*

(3) Such section is amended by adding at the end thereof the following new subsection:

“(e) **DATA COLLECTION PROGRAMS.**—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for the purposes of—

“(1) determining whether a fishery management plan is needed for a fishery; or

“(2) preparing a fishery management plan;

the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, he shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after he receives that request.”.

Regulations.

#### SEC. 7. ACTION BY SECRETARY.

(a) Section 304 (16 U.S.C. 1854) is amended as follows:

(1) Subsections (a) and (b) are amended to read as follows:

“(a) **ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.**—(1) After the Secretary receives a fishery management plan, or amendment to a plan, which was prepared by a Council (the date of receipt of which is hereafter in this section referred to as the ‘receipt date’), the Secretary shall—

“(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law;

Review.

“(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the receipt date; and

Publication in Federal Register.

“(C) by the 30th day after the receipt date—

“(i) make such changes in the proposed regulations submitted for the plan or amendment under section 303(c) as may be necessary for the implementation of the plan, and

*Ante, p. 2486.*

“(ii) publish such proposed regulations, including any changes made thereto under clause (i), in the Federal Register together with an explanation of those changes which are substantive.

Publication in Federal Register.

“(2) In undertaking the review required under paragraph (1)(A), the Secretary shall—

“(A) take into account the data, views, and comments received from interested persons;

“(B) consult with the Secretary of State with respect to foreign fishing; and

“(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

Plan  
implementation.  
*Post*, p. 2490.

“(b)(1) A plan or amendment shall take effect and be implemented in accordance with section 305(c) if—

“(A) the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or

“(B) at any time subsequent to the 75th day after the receipt date and before such 95th day, the Secretary notifies the Council in writing that he does not intend to disapprove, or partially disapprove, the plan or amendment.

Notification of  
disapproval.

“(2) If after review under subsection (a) the Secretary determines that the plan or amendment is not consistent with the criteria set forth in paragraph (1)(A) of that subsection, the Secretary shall notify the Council in writing of his disapproval or partial disapproval of the plan or amendment. Such notice shall specify—

“(A) the applicable law with which the plan or amendment is inconsistent;

“(B) the nature of such inconsistency; and

“(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

Revised plan.

“(3)(A) If the Secretary disapproves, or partially disapproves, a proposed plan or amendment under paragraph (2), the Council may submit a revised plan or amendment, accompanied by appropriately revised proposed regulations, to the Secretary.

“(B) After the Secretary receives a revised plan or amendment under subparagraph (A) or (C)(ii), the Secretary shall immediately—

“(i) commence a review of the plan or amendment to determine whether it complies with the criteria set forth in subsection (a)(1)(A);

Publications in  
Federal  
Register.

“(ii) publish in the Federal Register a notice stating that the revised plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 30-day period beginning on the date (hereinafter in this paragraph referred to as the ‘revised receipt date’) the plan or amendment was submitted to the Secretary under subparagraph (A) or (C)(ii); and

“(iii) review the revised proposed regulations, if any, submitted by the Council and make such changes to them as may be necessary for the implementation of the plan, and thereafter publish such revised proposed regulations (as so changed) in the Federal Register together with an explanation of each of such changes that is substantive.

“(C)(i) Before the close of the 60th day after the revised receipt date, the Secretary, after taking into account any data, views, or comments received under subparagraph (B)(ii), shall complete the review required under subparagraph (B)(i) and determine whether the plan or amendment complies with the criteria set forth in subsection (a)(1)(A). If the Secretary determines that a plan or amendment is not in compliance with such criteria, he shall immediately notify the Council of his disapproval of the plan or amendment.

Notification of  
disapproval.

“(ii) After notifying a Council of disapproval under clause (i), the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised plan or amendment, together with appropriately revised proposed regulations, for review and determination under this paragraph.

“(D) A revised plan or amendment shall take effect and be implemented in accordance with section 305(c) if the Secretary does not notify the Council, in writing, by the close of the 60th day after the revised receipt date of his disapproval of the plan or amendment.”.

*Post*, p. 2490.

(2) Subsection (c)(1) is amended—

(A) by amending paragraph (1)—

(i) by amending subparagraph (B) to read as follows:

“(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be.”, and

(ii) by adding immediately after the last sentence thereof the following flush sentence:

“The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.”; and

(B) by amending paragraph (2) to read as follows:

“(2)(A) Whenever, under paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

“(i) submit such plan or amendment, and proposed regulations to implement such plan or amendment, to the appropriate Council for consideration and comment;

“(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the date the plan or amendment was submitted under clause (i); and

“(iii) by the 30th day after the date of submission under clause (i), submit for publication in the Federal Register the proposed regulations to implement the plan or amendment.

Publication in  
Federal  
Register.

“(B) The appropriate council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 75-day period referred to in subparagraph (A)(ii). After the close of such 75-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 305(c).”.

Comments and  
recommendations.

(3) Subsection (d) is amended by striking out the last sentence and inserting in lieu thereof the following: “The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.”.

(b) The amendments made by subsection (a) shall only apply with respect to fishery management plans and amendments thereto that

16 USC 1854  
note.

are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act for action under section 304.

#### SEC. 8. IMPLEMENTATION OF PLANS.

Section 305 (16 U.S.C. 1855) is amended as follows:

(1) Subsections (a) and (b) are repealed.

(2) Subsection (c) is amended to read as follows:

Regulations.

“(c) **IMPLEMENTATION.**—The Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment—

*Ante*, p. 2487.

“(1) within 110 days after the plan or amendment was received by him for action under section 304(a), if such plan or amendment takes effect under section 304(b)(1);

“(2) within 75 days after a revised plan or amendment was received by him under section 304(b), if such plan or amendment takes effect under paragraph (3)(D) of such section; or

“(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 304(c).”.

(3) Subsection (e) is amended to read as follows:

Regulations.

“(e) **EMERGENCY ACTIONS.**—(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

“(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

“(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the members who are voting members, requests the taking of such action; and

“(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

“(3) Any emergency regulation which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

Publication in  
Federal  
Register.

“(A) shall be published in the Federal Register together with the reasons therefor;

“(B) shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council, be promulgated for one additional period of not more than 90 days; and

Notice of  
termination,  
publication in  
Federal  
Register.

“(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.”.

(4) Subsection (f) is repealed.

(5) Such section is further amended by adding at the end thereof the following new subsection:

44 USC 101 note.

“(h) **EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.**—The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12291, dated February 17, 1981, shall be complied with within the time limitations specified in subsection (c) or section 304 (a) and (b) as they apply to the functions of the Secretary under such provisions.”.

3 CFR, 1981  
Comp., p. 127.  
*Ante*, p. 2487.

**SEC. 9. STATE JURISDICTION.**

Section 306(a) (16 U.S.C. 1856(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "For purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend (1) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party and (2) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich."

**SEC. 10. SUBPENA POWER.**

Section 308 (16 U.S.C. 1858) is amended by adding at the end thereof the following new subsection:

"(e) SUBPENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

**SEC. 11. OFFENSES.**

(a) Section 309(b) (16 U.S.C. 1859(b)) is amended by striking out "or imprisonment for not more than 1 year, or both".

(b) The amendment made by subsection (a) applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act.

16 USC 1859  
note.

**SEC. 12. CIVIL FORFEITURES.**

Section 310(a) (16 U.S.C. 1860(a)) is amended by inserting "(or the fair market value thereof)" immediately after "fish" each place it appears.

**SEC. 13. POWERS OF AUTHORIZED OFFICERS.**

Section 311(b) (16 U.S.C. 1861(b)) is amended—

- (1) by inserting "(1)" immediately before "Any officer";
- (2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;
- (3) by redesignating subparagraphs (A), (B), (C), (D), and (E) as clauses (i), (ii), (iii), (iv), and (v), respectively; and
- (4) by adding at the end thereof the following new paragraph:

"(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence,



or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the fishery conservation zone, the Secretary of the department in which the Coast Guard is operating.”.

#### SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 406 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

“(9) \$59,000,000 for the fiscal year ending September 30, 1983.

“(10) \$64,000,000 for the fiscal year ending September 30, 1984.

“(11) \$69,000,000 for the fiscal year ending September 30, 1985.”.

(b)(1) Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended—

(A) by inserting “(1)” immediately before “Whenever”; and

(B) by adding at the end thereof the following new paragraph:

“(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, the Federal share of any grant made under this section to carry out activities required by such plan shall be 90 percent.”.

(2) Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by adding after paragraph (3) the following new paragraph:

“(4) \$7,500,000 for each of fiscal years 1983, 1984, and 1985.”.

(3) The first sentence of section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking out “and” after “1981,” and by inserting immediately before the period the following: “, and not to exceed \$1,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984”.

#### SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 3(27) (16 U.S.C. 1802(27)) is amended to read as follows:

“(27) The term ‘vessel of the United States’ means—

“(A) any vessel documented under the laws of the United States;

“(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and measuring less than 5 net tons; or

“(C) any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and used exclusively for pleasure.”.

(b) Section 307(2) (16 U.S.C. 1857(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

“(A) in fishing within the boundaries of any State, except recreational fishing permitted under section 201(j);” and

(B) by striking out “in fishing” in subparagraph (B) and inserting in lieu thereof “in fishing, except recreational fishing permitted under section 201(j),”.

*Ante*, p. 107.

(c) The last sentence of section 311(a) (16 U.S.C. 1861(a)) is repealed.

(d) Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking out “and 1982” and inserting in lieu thereof “1982, 1983, 1984, and 1985”.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 5002 (S. 2450):**

HOUSE REPORTS: No. 97-549 (Comm. on Merchant Marine and Fisheries) and Nos. 97-981 and 97-982 (Comm. of Conference).

SENATE REPORT No. 97-519 accompanying S. 2450 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 20, House considered and rejected conference report 97-981 and agreed to conference report 97-982.

Dec. 21, Senate agreed to conference report 97-982.

Public Law 97-454  
97th Congress

An Act

Jan. 12, 1983

[H.R. 7410]

To amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes.

Quarterly  
financial report,  
transfer.  
13 USC 101.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) chapter 3 of title 13, United States Code, is amended—

- (1) by redesignating subchapter III as subchapter IV; and
- (2) by inserting after subchapter II the following:

**“SUBCHAPTER III—QUARTERLY FINANCIAL STATISTICS**

13 USC 91.

**“§ 91. Collection and publication**

“(a) The Secretary shall collect and publish quarterly financial statistics of business operations, organization, practices, management, and relation to other businesses, including data on sales, expenses, profits, assets, liabilities, stockholders’ equity, and related accounts generally used by businesses in income statements, balance sheets, and other measures of financial condition.

“(b) Except to the extent determined otherwise by the Secretary on the basis of changed circumstances, the nature of statistics collected and published under this section, and the manner of the collection and publication of such statistics, shall conform to the quarterly financial reporting program carried out by the Federal Trade Commission before the effective date of this section under section 6(b) of the Federal Trade Commission Act.

15 USC 46.

“(c) For purposes of section 6103(j)(1) of the Internal Revenue Code of 1954, the conducting of the quarterly financial report program under this section shall be considered as the conducting of a related statistical activity authorized by law.”

(b) The table of contents of chapter 3 of title 13, United States Code, is amended by striking out “III” in the item relating to subchapter III, and inserting “IV” in lieu thereof, and by inserting after the item relating to subchapter II the following:

**“SUBCHAPTER III—QUARTERLY FINANCIAL STATISTICS**

**“91. Collection and publication.”.**

13 USC 91 note.

**SEC. 2. (a)** There are transferred to the Secretary of Commerce, for administration under section 91 of title 13, United States Code, all functions relating to the quarterly financial report program which was carried out by the Federal Trade Commission before the effective date of this Act pursuant to the authority of section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)).

(b) All personnel, property, and records of the Federal Trade Commission which the Director of the Office of Management and Budget determines, after consultation with the Secretary of Commerce and the Chairman of the Federal Trade Commission, to be employed, held, or used in connection with any function relating to the quarterly financial report program shall be transferred to the

Department of Commerce. For purposes of sections 6103, 7213, and 7431, and other provisions of the Internal Revenue Code of 1954, return information (as defined in section 6103(b) of such Code) which is transferred under this subsection shall be treated as if it were furnished to the Bureau of the Census under section 6103(j)(1) of such Code solely for administering the quarterly financial report program under section 91 of title 13, United States Code. Such transfer shall be carried out not later than 90 days after the effective date of this Act.

*Ante*, pp. 572, 645.

Sec. 3. Not later than 180 days after the effective date of this Act, the Secretary of Commerce shall publish in the Federal Register a statement of the policy and practices of the Bureau of the Census relating to the administration of section 23(c) of title 13, United States Code. Such statement shall include a description of—

Publication  
in Federal  
Register.  
13 USC 23 note.

(1) the policy of the Secretary for the use of all individuals as temporary staff pursuant to such section 23(c) to assist the Bureau of the Census in performing work authorized under such title 13;

(2) the functions for which the Secretary, in his discretion, may appoint temporary staff to assist the Bureau in performing work authorized under such title 13;

(3) the practice applicable to the appointment of such temporary staff in performing such work;

(4) the requirements and penalties under such title applicable to temporary staff performing such work, together with safeguards to ensure that such temporary staff will observe the limitations imposed in section 9 of such title.

13 USC 9.  
Effective date.

Sec. 4. (a) This Act shall take effect on the date of the enactment of this Act.

(b) This Act, including the amendments made by this Act, shall cease to have effect 7 years after such effective date.

Termination  
date.  
13 USC 91 note.  
Report to  
Congress.

(c) Not later than 2 years after such effective date, the Secretary of Commerce shall submit a report to the Congress regarding the administration of the program transferred by this Act. Such report shall describe—

(1) the estimated respondent burden, including any changes in the estimated respondent burden after the transfer of such program;

(2) the application made by various public and private organizations of the information published under such program; and

(3) technical or administration problems encountered in carrying out such program.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 7410:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 23, considered and passed Senate.

Public Law 97-455  
97th Congress

An Act

To amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes.

Jan. 12, 1983

[H.R. 7093]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.**

(a) **IN GENERAL.**—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

**“SEC. 934A. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.**

“(a) **GENERAL RULE.**—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

“(1) the taxes imposed by sections 871(a)(1) and 881 (as made applicable to the Virgin Islands) shall apply except that ‘10 percent’ shall be substituted for ‘30 percent’, and

“(2) subsection (a) of section 934 shall not apply to such taxes.

“(b) **SUBSECTION (a) RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.**—

“(1) **IN GENERAL.**—Any change under subsection (a)(1), and any reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction.

“(2) **ORDERING RULE.**—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction (to the extent thereof).”

(b) **WITHHOLDING.**—Subchapter A of chapter 3 of such Code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

**“SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME.**

“For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 (as

Internal  
Revenue Code of  
1954 and Social  
Security Act,  
amendments.

26 USC 934A.

26 USC 1444.

modified by section 934A) shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

26 USC 934.

(c) **TECHNICAL AMENDMENT.**—Subsection (a) of section 934 of such Code is amended by inserting before the period at the end thereof "or in section 934A".

(d) **CLERICAL AMENDMENTS.**—

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 934 the following new item:

"Sec. 934A. Income tax rate on Virgin Islands source income."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

26 USC 934A  
note.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) **WITHHOLDING.**—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

## **SEC. 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL.**

42 USC 423.

Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

42 USC 421.

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1984.

42 USC 1395.

Overpayments.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is

not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

“(B) If the Secretary determines that the individual’s appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual’s election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

Waiver  
consideration.

42 USC 404.

“(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—

“(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

42 USC 421.

“(B) prior to October 1, 1983.”.

#### SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES.

Section 221(i) of the Social Security Act is amended—

42 USC 421.

(1) by inserting “(1)” after “(i)”;

(2) by inserting “, subject to paragraph (2)” after “at least every 3 years”; and

(3) by adding at the end thereof the following new paragraph:

“(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.”.

Case number  
determination,  
waiver.

Report to  
congressional  
committees.

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

Effective date.  
42 USC 421 note.

#### SEC. 4. EVIDENTIARY HEARINGS IN RECONSIDERATIONS OF DISABILITY BENEFIT TERMINATIONS.

(a) IN GENERAL.—Section 205(b) of the Social Security Act is amended—

42 USC 405.

(1) by inserting “(1)” after “(b)”;

(2) by adding at the end thereof the following new paragraph:

“(2) In any case where—

“(A) an individual is a recipient of disability insurance benefits, or of child’s, widow’s, or widower’s insurance benefits based on disability,

“(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and



“(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Secretary not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Secretary (before any hearing under paragraph (1) on the issue of such entitlement) of his determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Secretary where the finding was originally made by the State agency, and shall be made by the Secretary where the finding was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Secretary of a finding described in subparagraph (B) which was originally made by the Secretary, the evidentiary hearing shall be held by a person other than the person or persons who made the finding described in subparagraph (B).”.

42 USC 405 note.

*Ante*, p. 2499.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984.

42 USC 405 note.

#### **SEC. 5. CONDUCT OF FACE-TO-FACE RECONSIDERATIONS IN DISABILITY CASES.**

The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act (as added by section 4 of this Act). For this purpose the Secretary shall—

(1) provide for the establishment and implementation of procedures for the conduct of such reconsiderations in a manner which assures that beneficiaries will receive reasonable notice and information with respect to the time and place of reconsideration and the opportunities afforded to introduce evidence and be represented by counsel; and

(2) advise beneficiaries who request or are entitled to request such reconsiderations of the procedures so established, of their opportunities to introduce evidence and be represented by counsel at such reconsiderations, and of the importance of submitting all evidence that relates to the question before the Secretary or the State agency at such reconsiderations.

#### **SEC. 6. REPORT BY SECRETARY.**

*Ante*, p. 2499.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

“(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of

continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benefits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.”.

**SEC. 7. OFFSET AGAINST SPOUSES' BENEFITS ON ACCOUNT OF PUBLIC PENSIONS.**

**(a) ADDITIONAL EXEMPTION.—**

(1) Section 334 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by adding at the end thereof the following new subsection:

42 USC 402 note.

“(h) In addition, the amendments made by the preceding provisions of this section shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act, to an individual—

42 USC 402.

“(1) to whom there is payable for any month prior to July 1983 (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act); and

42 USC 418.

“(2) who at the time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g)—

“(A) meets the dependency test of one-half support set forth in paragraph (1)(C) of such subsection (c) as it read prior to the enactment of the amendments made by this section, or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (b) or (c), or

“(B) meets the dependency test of one-half support set forth in paragraph (1)(D) of such subsection (f) as it read prior to the enactment of the amendments made by this section, or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (e), (f), or (g).”.

(2) Section 334(f) of such Act is amended by striking out “The amendments” and inserting in lieu thereof “Subject to subsections (g) and (h), the amendments”.

42 USC 402 note.

**(b) REPORT BY SECRETARY.—**The Secretary of Health and Human Services shall conduct a study of the provisions of title II of the Social Security Act which require an offset against spouses' and surviving spouses' benefits on account of public pensions, as added by section 334 of the Social Security Amendments of 1977 (taking into account the amendment made by subsection (a) of this section as well as the provisions of such section 334), and shall report to the Congress, no later than May 15, 1983, his recommendations for any permanent legislative changes in such provisions (or in the applicability of such provisions) which he may consider appropriate.

Study.

42 USC 401.

91 Stat. 1544.

**(c) TECHNICAL AMENDMENTS.—**Subsections (b)(4)(A), (c)(2)(A), (e)(8)(A), (f)(2)(A) and (g)(4)(A) of section 202 of the Social Security Act

42 USC 402.

are each amended by inserting “for purposes of this title” after “as defined in section 210”.

42 USC 402 note.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (c) of this section shall be effective with respect to monthly insurance benefits for months after November 1982.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 7093:**

**HOUSE REPORTS:** No. 97-833 (Comm. on Ways and Means) and No. 97-985 (Comm. of Conference).

**SENATE REPORT** No. 97-648 (Comm. on Finance).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

Sept. 20, considered and passed House.

Dec. 3, considered and passed Senate, amended.

Dec. 14, House concurred in Senate amendment, in another with an amendment, and disagreed to certain amendments.

Dec. 21, Senate and House agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 19, No. 2 (1983):  
Jan. 12, Presidential statement.

Public Law 97-456  
97th Congress

An Act

To authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes.

Jan. 12, 1983

[H.R. 6094]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

“(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1983 not to exceed \$19,737,000. No part of any sum that is appropriated under the authority of this paragraph may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.”

(b) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS FOR USE OF THE COMMISSION.—Subsection (a)(1) of section 331 of the Tariff Act of 1930 (19 U.S.C. 1331(a)(1)) is amended to read as follows:

“(a)(1)(A) Except as provided in paragraph (2), the chairman of the Commission shall—

“(i) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

“(ii) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, and

“(iii) exercise and be responsible for all other administrative functions of the Commission.

“(B) The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

“(C) Any decision by the chairman under subparagraph (A) or (B) shall be subject to disapproval by a majority vote of all the commissioners in office.”

SEC. 2. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (92 Stat. 905; 19 U.S.C. 2075) is amended—

(1) by striking out “For” and inserting in lieu thereof “(a) For”; and

(2) by inserting at the end thereof the following new subsections:

“(b) There are authorized to be appropriated to the Department of the Treasury not to exceed \$564,224,000 for the salaries and expenses of the United States Customs Service for fiscal year 1983,

U.S.  
International  
Trade  
Commission,  
U.S. Customs  
Service and  
Office of the U.S.  
Trade  
Representative.  
Appropriation  
authorizations.

of which not to exceed \$31,464,000 is for salary and expenses for the enforcement of the alcohol and tobacco revenue laws.

"(c) No part of any sum that is appropriated under the authority of subsection (b) may be used to implement any procedure relating to the time of collection of estimated duties that shortens the maximum 10-day deferment procedure in effect on January 1, 1981.

"(d) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for salaries of the United States Customs Service such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970."

5 USC 5301 note.

### SEC. 3. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Subsection (f) of section 141 of the Trade Act of 1974 (19 U.S.C. 2171(f)) is amended to read as follows:

"(f)(1) There are authorized to be appropriated to the Office for the purpose of carrying out its functions \$11,100,000 for fiscal year 1983; of which not to exceed \$65,000 may be used for entertainment and representation expenses.

"(2) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970."

(b) **FUNCTIONS AND POWERS OF THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.**—Section 141 of the Trade Act of 1974 is amended—

(1) by redesignating paragraph (2) of subsection (c) as paragraph (3) of subsection (c) and by inserting immediately after subsection (c)(1) the following new paragraph:

"(2) The United States Trade Representative may—

"(A) delegate any of his functions, powers, and duties to such officers and employees of the Office as he may designate; and

"(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as he may deem appropriate."

(2) by inserting ", powers and duties" after "functions" in subsection (d)(3);

(3) by striking out "and" at the end of subsection (d)(6);

(4) by striking out the period at the end of subsection (d)(7) and inserting in lieu thereof a semicolon; and

(5) by adding after subsection (d)(7) the following:

"(8) pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provisions of subchapter I of chapter 57 of title 5, United States Code (relating to rates of per diem allowances in lieu of subsistence expenses);

"(9) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office; and

"(10) acquire, by purchase or exchange, not more than two passenger motor vehicles for use abroad, except that no vehicle may be acquired at a cost exceeding \$9,500."

5 USC 5701 *et seq.*

(c) **ADDITIONAL DEPUTY UNITED STATES TRADE REPRESENTATIVE.**—Paragraph (2) of section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended by striking out “two Deputy Special Representatives for Trade Negotiations” and inserting in lieu thereof “three Deputy United States Trade Representatives”.

(d) **CONFORMING AMENDMENTS.**—

(1) Subsections (b)(3), (g), and (h) of section 141 of the Trade Act of 1974 are hereby repealed.

(2) Section 141 of the Trade Act of 1974 is further amended—

(A) by striking out “a Deputy Special Representative” in subsection (b)(2) and inserting in lieu thereof “a Deputy United States Trade Representative”;

(B) by striking out “Deputy Special Representative for Trade Negotiations” in subsection (b)(2) and inserting in lieu thereof “Deputy United States Trade Representative”;

(C) by striking out “Deputy Special Representative for Trade Negotiation” in subsection (c)(3), as redesignated by this Act, and inserting in lieu thereof “Deputy United States Trade Representative”; and

(D) by striking out “Special Representative for Trade Negotiations” each place it appears in the text and heading thereof and inserting in lieu thereof “United States Trade Representative”.

(3) The chapter heading for chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

**“CHAPTER 4—OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE”.**

(4) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to chapter 4 of title I and inserting in lieu thereof the following:

“CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

“Sec. 141. Office of the United States Trade Representative.”.

(5) Section 5312 of title 5, United States Code, is amended by striking out the paragraph relating to the Special Representative for Trade Negotiations and inserting in lieu thereof the following paragraph:

“United States Trade Representative.”.

5 USC 5312,  
5314, 19 USC  
2171.

(6) Section 5314 of title 5, United States Code, is amended by striking out the paragraph relating to the Deputy Special Representatives for Trade Negotiations and inserting in lieu thereof the following paragraph:

“Deputy United States Trade Representatives (3).”.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 6094 (S. 2555):**

**HOUSE REPORTS:** No. 97-497 (Comm. on Ways and Means) and No. 97-988 (Comm. of Conference).

**SENATE REPORT** No. 97-410 accompanying S. 2555 (Comm. on Finance).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

June 16, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Dec. 21, House and Senate agreed to conference report.

Public Law 97-457  
97th Congress

Joint Resolution

To make technical corrections in certain banking and related statutes.

Jan. 12, 1983

[S.J. Res. 271]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Section 13(c)(5)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(5)(A)), as added by section 111 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 2. Section 5(o)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)(1)), as added by section 112 of Public Law 97-320, is amended by inserting "examination," after "operation,".

SEC. 3. The last sentence of section 26(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831c(a)), as added by section 113(p) of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 4. Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(1)), as added by section 116 of Public Law 97-320, is amended by striking out "paragraphs" both places it appears and inserting in lieu thereof "paragraph".

SEC. 5. Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)), as amended by section 122(f) of Public Law 97-320, is amended by striking out "paragraphs (1) or (2)" and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 6. Section 408(l) of the National Housing Act (12 U.S.C. 1730a(l)) is amended by striking out "mergers or acquisitions approved under subsection (e)(2)" and inserting in lieu thereof "any transaction approved under subsection (e)(2) or (m)".

SEC. 7. (a) Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)), as added by section 123 of Public Law 97-320, is amended by striking out "subsections (e) (2) and (1)" and inserting in lieu thereof "subsections (e) (2) and (l)".

(b) Section 408(m)(1)(B)(iii) of such Act is amended by striking out "Board of Directors" each place it appears and inserting in lieu thereof "Federal Home Loan Bank Board".

SEC. 8. The second sentence of section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)), as amended by section 127 of Public Law 97-320, is amended—

(1) by striking out "the Administrative Procedure Act" and inserting in lieu thereof "section 553 of title 5, United States Code"; and

(2) by striking out "such Act" and inserting in lieu thereof "section 554 of such title".

SEC. 9. (a) Section 406(f)(5)(C)(ii) of the National Housing Act (12 U.S.C. 1729(f)(5)(C)(ii)), as added by section 202 of Public Law 97-320, is amended by striking out "if" the second place it appears.

Certain banking and related statutes, technical corrections. *Ante*, p. 1469. Effective date. 12 USC 1823 note. *Ante*, p. 1471.

*Ante*, p. 1474.

*Ante*, p. 1476.

*Ante*, p. 1482.

*Ante*, p. 1483.

*Ante*, p. 1486.

*Ante*, p. 1489.



*Ante*, p. 1489.

(b)(1) Section 406(f)(5)(I) of such Act (12 U.S.C. 1729(f)(5)(I)), as added by section 202 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

Effective date.

12 USC 1729

note.

*Ante*, p. 1492.

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 10. (a) Section 13(i)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(9)), as added by section 203 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

Effective date.

12 USC 1823

note.

*Ante*, p. 1496.

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 11. Section 206 of Public Law 97-320 is amended to read as follows:

**"SUNSET PROVISION**

12 USC 1729,

1823,

1729 note.

*Ante*, p. 1489.

*Ante*, p. 1492.

"SEC. 206. (a) Upon the expiration of three years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

"(b) The repeal by subsection (a) shall have no effect on any action taken or authorized pursuant to the amendments made by this title by or for a qualified institution while such amendments were in effect and while net worth certificates issued pursuant to these amendments are outstanding."

*Ante*, p. 1496.

SEC. 12. The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)(B)), as amended by section 312 of Public Law 97-320, is amended by inserting "may accept a demand account from itself and" after "An association".

*Ante*, p. 1501.

SEC. 13. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503), as amended by section 327 of Public Law 97-320, is amended by adding at the end thereof the following:

12 USC 461.

"(4) The transitional adjustment provisions in section 19(b)(8) of the Federal Reserve Act, providing for the phase-in of reserve requirements, shall not apply to an account or accounts established pursuant to this subsection."

SEC. 14. (a)(1) Section 5(c)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(3)) is amended by adding at the end thereof the following:

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (i) the sum of its surplus, undivided profits, and reserves, or (ii) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (I) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (II) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection."

Effective date.

12 USC 1464

note.

*Ante*, p. 1504.

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

(b) Section 5(r)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(r)(2)(B)), as added by section 334 of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 15. Section 352 of Public Law 97-320, is amended by inserting "Home" after "Federal" the first place it appears. *Ante*, p. 1507.

SEC. 16. Section 6(m) of the Federal Home Loan Bank Act (12 U.S.C. 1426(m)), as added by section 355(b) of Public Law 97-320, is amended by striking out "Banks" and inserting in lieu thereof "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board". *Ante*, p. 1508.

SEC. 17. (a) Section 5200(b)(1) of the Revised Statutes (12 U.S.C. 84), as amended by section 401 of Public Law 97-320, is amended by inserting a comma before "to the extent specified by the Comptroller of the Currency". *Ante*, p. 1508.

(b) Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking out in the first sentence "under paragraph (8) of section 5200 of the Revised Statutes, as amended (U.S.C., Supp. VII, title 12, sec. 84)" and inserting in lieu thereof "under section 5200(c)(4) of the Revised Statutes".

SEC. 18. The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404(b) of Public Law 97-320, is amended by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum of the association's". *Ante*, p. 1511.

SEC. 19. (a) Section 2(b) of the Act of May 1, 1886 (12 U.S.C. 30(b)), as amended by section 405(a) of Public Law 97-320, is amended by inserting "for a relocation outside such limits" after "stock of such association". *Ante*, p. 1512.

(b) The first sentence of section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by striking out "with any name approved by the Comptroller of the Currency" and inserting in lieu thereof "with a name that contains the word 'national'".

SEC. 20. (a) Section 406 of Public Law 97-320 is amended to read as follows: *Ante*, p. 1512.

#### "VENUE PROVISIONS"

"SEC. 406. The last sentence of section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows: 'Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.'"

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320. *Effective date.*  
12 USC 94 note.

SEC. 21. Section 4(b)(1) of the Act of March 9, 1933 (12 U.S.C. 95(b)(1)), as amended by section 407 of Public Law 97-320, is amended by inserting "a State or" before "a State official". *Ante*, p. 1513.

SEC. 22. Section 23A(d) of the Federal Reserve Act (12 U.S.C. 371c(d)), as amended by section 410(b) of Public Law 97-320, is amended— *Ante*, p. 1515.

(1) by striking out "except for the purchase of a low-quality asset which is prohibited" in paragraph (1) and inserting in lieu thereof "subject to the prohibition contained in subsection (a)(3)"; and

(2) by striking out “purchasing loans on a nonrecourse basis from affiliated banks” in paragraph (6) and inserting in lieu thereof “, subject to the prohibition contained in subsection (a)(3), purchasing loans on a nonrecourse basis from affiliated banks”.

*Ante*, p. 1521.

SEC. 23. (a) Section 412 of Public Law 97-320 is amended to read as follows:

“VISITORIAL POWERS

“SEC. 412. The fifth paragraph of section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

“(A) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

“(B) Notwithstanding subparagraph (A), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.”.

Effective date.  
12 USC 484 note.  
*Ante*, p. 1522.

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

*Ante*, p. 1529.

SEC. 24. Section 424(g) of Public Law 97-320 is amended by striking out “688” and inserting in lieu thereof “668”.

SEC. 25. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)), as amended by section 507 of Public Law 97-320, is amended by striking out “Association” and inserting in lieu thereof “Administration”.

*Ante*, p. 1530.

SEC. 26. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)), as amended by section 514 of Public Law 97-320, is amended—

(1) by striking out “and” before “(J)”;

(2) by striking out “(L)” and inserting in lieu thereof “(K)”;

and

(3) by striking out “; and” at the end thereof and inserting in lieu thereof a period.

*Ante*, p. 1530.

SEC. 27. The next to the last sentence of section 124 of the Federal Credit Union Act (12 U.S.C. 1770), as amended by section 515 of Public Law 97-320, is amended by inserting “of” after “installation”.

*Ante*, p. 1532.

SEC. 28. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b), as amended by section 522 of Public Law 97-320, is amended—

(1) by striking out “directions” and inserting in lieu thereof “direction”;

(2) by striking out “unions” in paragraph (2) and inserting in lieu thereof “union”;

(3) by inserting “by” after “interest paid” in paragraph (9);

and

(4) by striking out “meetings” in paragraph (15) and inserting in lieu thereof “meeting”.

*Ante*, p. 1535.

SEC. 29. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)), as amended by section 529 of Public Law 97-320, is

amended by striking out “paragraphs (2) and (3)” in paragraph (1) and inserting in lieu thereof “paragraph (2)”.

**SEC. 30.** The first sentence of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), as amended by section 601 of Public Law 97-320, is amended—

*Ante*, p. 1536.

(1) by inserting “: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C)” before “; or (G)”; and

(2) by striking out the proviso at the end thereof.

**SEC. 31.** Section 701(c) of Public Law 97-320 is amended—

*Ante*, p. 1538.

(1) by striking out “both”; and

(2) by inserting “, on,” after “prior to”.

**SEC. 32.** (a) Section 1(b)(4) of the Bank Service Corporation Act (12 U.S.C. 1861(b)(4)), as amended by section 709 of Public Law 97-320, is amended—

*Ante*, p. 1540.

(1) by striking out “or another” after “insured bank,” and inserting in lieu thereof “a”; and

(2) by inserting before the final semicolon the following: “, or a financial institution the accounts or deposits of which are insured or guaranteed under State law and are eligible to be insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board”.

(b) The Bank Service Corporation Act, as amended by section 709 of Public Law 97-320, is amended—

*Ante*, p. 1540.

(1) by striking out “the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.)” in section 7(b) and inserting in lieu thereof the following: “section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)”; and

(2) by striking out “under this Act” in subsections (d) and (e) of section 4 and inserting in lieu thereof “under the law of the United States”.

**SEC. 33.** Section 414(a) of the National Housing Act (12 U.S.C. 1730c) is amended by inserting “(which, for the purpose of this section, shall include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)” after “insured institution” the first place it appears.

12 USC 1730g.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—S. J. Res. 271:**

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed Senate.

Dec. 21, considered and passed House, amended; Senate agreed to House amendments.

Public Law 97-458  
97th Congress

## An Act

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Jan. 12, 1983  
[H.R. 3731]

To amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims.

Indians.  
Judgment funds,  
distribution.

Plan, submittal  
to Congress.  
25 USC 1402.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.) is amended to read as follows:

“SEC. 2. (a) Within one year after appropriation of funds to pay a judgment of the Indian Claims Commission or the Court of Claims to any Indian tribe, the Secretary of the Interior shall prepare and submit to Congress a plan for the use and distribution of the funds. Such plan shall include identification of the present-day beneficiaries, a formula for the division of the funds among two or more beneficiary entities if such is warranted, and a proposal for the use and distribution of the funds. The Secretary shall simultaneously submit a copy of such plan to each affected tribe or group.

“(b) With respect to judgments, for which funds have been appropriated prior to the enactment of this amended section, but for which use or distribution has not been authorized by enactment of legislation or by an effective plan under this Act, the Secretary shall prepare and submit such plans within one year of the enactment of this amended section.

Proposed  
legislation,  
submittal to  
Congress.

“(c) In any case where the Secretary determines that the circumstances do not permit the preparation and submission of a plan as provided in this Act, he shall submit to the Congress within the one-year period proposed legislation to authorize use or distribution of such funds, together with a report thereon.

“(d) In cases where the Secretary has to submit a plan dividing judgment funds between two or more beneficiary entities, he shall obtain the consent of the tribal governments involved to the proposed division. If the Secretary cannot obtain such consent within one hundred and eighty days after appropriation of the funds for the award or within one hundred and eighty days of the enactment of this amended section, he shall submit proposed legislation to the Congress as provided in section 2(c).

Extension  
request,  
submittal to  
congressional  
committees.

“(e) An extension of the one-year period, not to exceed one hundred and eighty days, may be requested by the Secretary or by the affected Indian tribe, submitting such request to the committees through the Secretary, and any such request will be subject to the approval of both the Senate Select Committee on Indian Affairs and the United States House of Representatives Committee on Interior and Insular Affairs.”

25 USC 1403.

SEC. 2. (a) Section 3(b)(3) of said Act is hereby amended by adding at the end thereof the following proviso: “*Provided*, That such funds may be disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the minor or legal incompetent’s health, education, welfare, or emergencies under a plan or plans approved by the Secretary and the tribal

governing body of the Indian tribe involved.” Such plan or plans shall be limited to urgent needs arising from extenuating circumstances and shall accord with general principles governing administration of trust funds of minors and legal incompetents, including a requirement for strict accounting for expenditures.

25 USC 1403  
note.

(b) Clause (5) of section 3(b) of said Act is hereby striking out “warrant otherwise” and inserting in lieu thereof the following: “warrant otherwise: *Provided*, That in the development of such plan the Secretary shall survey past and present plans of the tribe for economic development, shall consider long range benefits which might accrue to the tribe from such plans, and shall encourage programing of funds for economic development purposes where appropriate.”

25 USC 1403.

SEC. 3. (a) Subsection (a) of section 5 of said Act is amended by deleting “either House adopts a resolution” and inserting in lieu thereof “a joint resolution is enacted”.

25 USC 1405.

(b) Subsection (b) of section 5 of said Act is amended by deleting “adoption of a resolution” and inserting in lieu thereof “enactment of a joint resolution”.

(c) Section 5 of said Act is amended by adding the following new subsections at the end thereof:

“(c) Within the sixty-day period and before the adoption of any resolution disapproving a plan, the Secretary may withdraw or amend such plan: *Provided*, That any amendments affecting the division of an award between two or more beneficiary entities shall be subject to the consent of these entities as provided in section 2(d) of this Act. Any such amended plan shall become valid at the end of a sixty-day period beginning on the day such amendment is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan as amended.

Plan,  
withdrawal  
or amendment.

“(d) Once a plan is withdrawn before the end of a sixty-day period, the Secretary has until the expiration of the original one-year deadline to resubmit a plan to Congress. Such a plan shall become valid at the end of a sixty-day period beginning on the day such new plan is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan.

“(e) Upon the introduction of the first such resolution of disapproval in either the House of Representatives or the Senate, the sixty-day period shall be recomputed from the date of such introduction and shall not again be extended.”

SEC. 4. Section 7 of said Act is amended to read as follows:

25 USC 1407.  
Tax exemption.

“SEC. 7. None of the funds which—

“(1) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this Act, or

“(2) on the date of enactment of this Act, are to be distributed per capita or are held in trust pursuant to a plan approved by the Congress prior to the date of enactment of this Act, or

“(3) were distributed pursuant to a plan approved by Congress after December 31, 1981 but prior to the date of enactment of this Act, and any purchases made with such funds,

including all interest and investment income accrued thereon while such funds are so held in trust, shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under

- 42 USC 1305. the Social Security Act or, except for per capita shares in excess of \$2,000, any Federal or federally assisted program.
- 25 USC 1408. "SEC. 8. Interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance under the Social Security Act or any other Federal or federally assisted program."

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 3731:**

HOUSE REPORT No. 97-340 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-658 (Comm. on Indian Affairs).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): Dec. 15, considered and passed House.

Vol. 128 (1982): Dec. 19, considered and passed Senate, amended.

Dec. 20, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 2 (1983):

Jan. 12, Presidential statement.

Public Law 97-459  
97th Congress

An Act

To authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and for other purposes.

Jan. 12, 1983

[S. 503]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Devils Lake  
Sioux Tribe, N.  
Dak.  
Authorization to  
procure land.

TITLE I

SEC. 101. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

SEC. 102. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 103. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such

43 USC 1701  
note.



tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 104. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this title shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

Trust.

SEC. 105. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this title shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 106. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this title of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this title and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 107. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out “and leases of land on the Agua Caliente” in the second sentence and inserting in lieu thereof “leases of land on the Agua Caliente”, and

(2) by striking out “and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington,” in the second sentence and inserting in lieu thereof the following: “leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,”.

Death of  
decedent,  
purchase of land  
interest.

SEC. 108. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within two years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least ninety days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is ninety days after the date on which the

governing body of the Devils Lake Sioux Tribe notifies the spouse of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decedent who is a member of such tribe.

(2) If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this title.

Sec. 109. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

Permanent  
homeland.

Sec. 110. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this title.

## TITLE II

Sec. 201. This title may be cited as the "Indian Land Consolidation Act".

Sec. 202. For the purpose of this title—

(1) "tribe" means any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;

(2) "Indian" means any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;

(3) "Secretary" means the Secretary of the Interior; and

(4) "trust or restricted lands" means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation.

Sec. 203. The provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), shall apply to all tribes notwithstanding the provisions of section 18 of such Act: *Provided*, That nothing in this section is intended to supersede any other provision of Federal law which authorizes, prohibits, or restricts the acquisition of land for Indians with respect to any specific tribe, reservation, or state(s).

Sec. 204. (a) Notwithstanding any other provision of law, any tribe, acting through its governing body, is authorized, with the approval of the Secretary to adopt a land consolidation plan providing for the sale or exchange of any tribal lands or interest in lands for the purpose of eliminating undivided fractional interests in Indian trust or restricted lands or consolidating its tribal land-holdings.

Sec. 205. Any Indian tribe may purchase at no less than the fair market value all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subjected to that tribe's jurisdiction with the consent of over 50 per centum of the owners or with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

(1) no such tract shall be acquired by any Indian or Indian tribe over the objection of three or less owners owning 50 per centum or more of the total interests in such tract;

Indian Land  
Consolidation  
Act.  
25 USC 2201  
note.  
Definitions.  
25 USC 2201.

25 USC 2202.  
25 USC 465.  
25 USC 478.

Land  
consolidation  
plan.  
25 USC 2203.

Interests in tract  
or restricted  
land, guidelines  
for purchase.  
25 USC 2204.

(2) any Indian owning any undivided interest in, and in actual use and possession of such tract, may purchase such tract by matching the tribal offer;

(3) this section shall not apply to any tract of land owned by less than fifteen persons; and

(4) all purchases and sales initiated under this section shall be approved by the Secretary.

Nontribal  
members or non-  
Indians, land  
entitlement.  
25 USC 2205.

SEC. 206. Notwithstanding any other provisions of law, any Indian tribe may provide by appropriate action of its governing body, subject to approval by the Secretary, that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or descent any interest of a member of such tribe in trust or restricted lands within that tribe's reservation or otherwise subjected to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

Trust account.

(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

Mineral rights.

(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan—

(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children shall be entitled to a life estate in as much of the trust or restricted lands as he, she or they would have been entitled to take under existing law;

(2) if an intestate Indian decedent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the

devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: *Provided*, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests, or be compensated by the tribe for the value of such interests.

SEC. 207. No undivided fractional interest in any tract of trust or restricted land within a tribe's reservation or otherwise subjected to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and has earned to its owner less than \$100 in the preceding year before it is due to escheat. 25 USC 2206.

SEC. 208. The Secretary in carrying out his responsibility to regulate the descent and distribution of trust lands under section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372) as amended, and other laws, shall give full faith and credit to any tribal actions taken pursuant to section 206 of this title, which provision shall apply only to estates of decedent's whose deaths occur on or after the effective date of tribal ordinances adopted pursuant to this title. 25 USC 2207.

SEC. 209. The Secretary shall have the authority to issue deeds, patents, or such other instruments of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to the terms of this title and to remove, at the request of an Indian owner, the trust status of individually held lands or interests therein, where authorized by law. Deeds or patents, issuance. 25 USC 2208.

SEC. 210. Title to any land acquired under this title by any Indian or Indian tribe shall be taken in trust by the United States for that Indian or Indian tribe. Land title. 25 USC 2209.

SEC. 211. All lands or interests in land acquired by the United States for an Indian or Indian tribe under authority of this title shall be exempt from Federal, State and local taxation. Tax exemption. 25 USC 2210.

Approved January 12, 1983.

#### LEGISLATIVE HISTORY—S. 503:

HOUSE REPORT No. 97-908 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-507 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 20, considered and passed Senate.

Dec. 6, considered and passed House, amended.

Dec. 19, Senate agreed to House amendments with amendments.

Dec. 20, House concurred in Senate amendments.

Public Law 97-460  
97th Congress

An Act

Jan. 12, 1983

[S. 1540]

To revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes.

Saratoga  
National  
Historical Park,  
N.Y.  
Boundary  
revision.  
16 USC 159f.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. In order to preserve certain lands historically associated with the Battle of Saratoga and to facilitate the administration and interpretation of the Saratoga National Historical Park (hereinafter in this Act referred to as "the park"), the boundary of the park is hereby revised to include the area generally depicted on the map entitled "Saratoga National Historical Park", numbered 80,001, and dated March 23, 1979.

Land  
acquisition.  
16 USC 159g.

SEC. 2. (a) Except as provided in subsection (b), within the boundary of the park, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"), is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange. Except for the tract identified on the aforesaid map as tract number 01-132, which was authorized to be acquired by section 115 of the Act of March 5, 1980 (94 Stat. 71), the Secretary may not acquire (except by donation) fee simple title to those lands depicted on the map as proposed for less than fee acquisition. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

16 USC 159e.

(b)(1) Appropriated funds may not be used to acquire lands or interests therein within the park without the consent of the owner except when—

(A) the Secretary determines that such owner is subjecting, or is about to subject, the property to actions which would significantly degrade its value as a component of the park; or

(B) the owner fails to comply with the provisions of paragraph (2).

The Secretary shall immediately notify the owner in writing of any determination under subparagraph (A). If the owner immediately ceases the activity subject to such notification, the Secretary shall attempt to negotiate a mutually satisfactory solution prior to exercising any authority provided by subsection (a) of this section.

Land transfer.

(2) If an owner of lands or interests therein within the park intends to transfer any such lands or interest to persons other than the owner's immediate family, the owner shall notify the Secretary in writing of such intention. Within forty-five days after receipt of such notice, the Secretary shall respond in writing as to his interest in exercising a right of first refusal to purchase fee title or lesser interests. If, within such forty-five days, the Secretary declines to respond in writing or expresses no interest in exercising such right, the owner may proceed to transfer such interests. If the Secretary responds in writing within such forty-five days and expresses an interest and intention to exercise a right of first refusal, the Secre-

tary shall initiate an action to exercise such right within ninety days after the date of the Secretary's response. If the Secretary fails to initiate action to exercise such right within such ninety days, the owner may proceed to otherwise transfer such interests. As used in this subsection with respect to a property owner, the term "immediate family" means the spouse, brother, sister, parent, or child of such property owner. Such term includes a person bearing such relationships through adoption and a stepchild shall be treated as a natural born child for purposes of determining such relationship.

"Immediate family."

(c) Subsection (b) shall not apply with respect to tract number 01-142.

(d) When an owner of property within the park desires to take an action with respect to his property, he shall request, in writing, a prompt written determination from the Secretary as to the likelihood of such action provoking a determination by the Secretary under the provisions of subsection (b)(1)(A). The Secretary is thereupon directed to promptly issue such owner a certificate of exemption from condemnation for such actions proposed by the owner which the Secretary determines to be compatible with the purposes of the park.

Certificate of exemption.

(e)(1) An owner of improved property which is used solely for noncommercial residential purposes, or for commercial agricultural purposes found to be compatible with the General Management Plan, on the date of its acquisition by the Secretary may retain, as a condition of such an acquisition, a right of use and occupancy of the property for such residential or agricultural purposes. The right retained may be for a definite term which shall not exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the term retained by the owner.

Right of use and occupancy.

(2) Except for tract number 01-142, paragraph (1) shall not apply to property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use.

(f) Any owner of lands or interests therein within the park who desires to have such lands or interests acquired by the Secretary may notify the Secretary in writing of such desire. It is the intention of the Congress that, upon receipt of such notification, and on the condition that such acquisition will transpire at fair market value and in accordance with other conditions acceptable to the Secretary, the Secretary shall endeavor to acquire such lands or interests therein within six months of the date of receipt of such notice from the owner.

Fair market value.

SEC. 3. Section 2 of the Act approved June 22, 1948 (62 Stat. 571; 16 U.S.C. 159d), is amended to read as follows:

"SEC. 2. The Secretary of the Interior is authorized to accept all or any portion of the General Philip Schuyler Mansion property, real and personal, situated at Schuylerville, New York, comprising approximately fifty acres."

Appropriation  
authorization.  
16 USC 159f  
note.

SEC. 4. There are hereby authorized to be appropriated after October 1, 1983, such sums as may be necessary, but not to exceed \$1,000,000 for the acquisition of lands and interests therein, to carry out the purposes of this Act.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—S. 1540:**

HOUSE REPORT No. 97-926 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 97-424 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 10, considered and passed Senate.

Oct. 1, considered and passed House, amended.

Dec. 20, Senate concurred in House amendment.

Public Law 97-461  
97th Congress

An Act

To authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes.

Jan. 12, 1983

[H.R. 6679]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 103(a) of the Federal Plant Pest Act (7 U.S.C. 150bb(a)) is amended by striking out "knowingly" each place it appears.

Plant, livestock and poultry diseases, civil penalties for introduction and dissemination.

(b) Section 108 of the Federal Plant Pest Act (7 U.S.C. 150gg) is amended to read as follows:

"SEC. 108. (a) Any person who—

"(1) knowingly violates section 103 of this Act or any regulation promulgated under this Act;

7 USC 150bb.

"(2) knowingly forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document; shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

"(b) Any person who—

"(1) violates section 103 of this Act or any regulation promulgated under this Act;

"(2) forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 2. The first paragraph of section 10 of the Act of August 20, 1912 (7 U.S.C. 163, 164), commonly known as the Plant Quarantine Act, is amended by striking out "That any person" and all that follows through "; and it" and inserting in lieu thereof the following: "That any person who knowingly violates any provision of this Act or any rule or regulation promulgated by the Secretary of Agriculture under this Act, or who knowingly forges or counterfeits any certificate provided for in this Act or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such



Notice; hearing.  
28 USC 2341 *et seq.*

certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty. It".

SEC. 3. The Act of January 31, 1942 (7 U.S.C. 149), is amended by—

(1) inserting "(a)" after "That"; and

(2) adding at the end the following new subsection:

"(b)(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

Notice; hearing.  
28 USC 2341 *et seq.*

"(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

21 USC 102, 103, 101, 105.

SEC. 4. Section 6 of the Act of August 30, 1890 (21 U.S.C. 104), is amended by striking out the last sentence and inserting in lieu thereof the following: "Any person who knowingly violates any provision of this section or sections 7 through 10 of this Act or any regulation prescribed by the Secretary of Agriculture under any such section shall be guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary

Notice; hearing.  
28 USC 2341 *et seq.*

may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

SEC. 5. Section 7 of the Act of May 29, 1884 (21 U.S.C. 117), commonly known as the Animal Industry Act, is amended by—

(1) inserting "(a)" after "SEC. 7.";

(2) inserting "or the rules and regulations prescribed by the Secretary of Agriculture under such section" after "Act"; and

(3) adding at the end the following new subsection:

21 USC 115.  
Notice; hearing.  
28 USC 2341 *et seq.*

"(b) Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall violate the provisions of section 6 of this Act or the rules and regulations prescribed by the Secretary of Agriculture under such section may be assessed a civil penalty by the Secretary of not more than \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

**SEC. 6.** Section 3 of the Act of February 2, 1903 (21 U.S.C. 122), commonly known as the Cattle Contagious Diseases Act of 1903, is amended by—

(1) striking out “one thousand dollars” and inserting in lieu thereof “five thousand dollars”; and

(2) adding at the end the following: “Any person, company, or corporation violating such provisions, orders, or regulations may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

Notice; hearing.

28 USC 2341 *et seq.*

**SEC. 7.** Section 6 of the Act of March 3, 1905 (21 U.S.C. 127), is amended by—

(1) striking out “one thousand dollars” and inserting in lieu thereof “five thousand dollars”; and

(2) adding at the end the following: “Any person, company, or corporation violating such provisions may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

Notice; hearing.

28 USC 2341 *et seq.*

**SEC. 8.** Section 6(a) of the Act of July 2, 1962 (21 U.S.C. 134e), is amended by—

(1) inserting “(1)” after “(a)”;

(2) striking out “\$1,000” and inserting in lieu thereof “\$5,000”; and

(3) adding at the end the following new paragraph:

“(2) Whoever violates any such regulation may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

Notice; hearing.

28 USC 2341 *et seq.*

**SEC. 9.** Section 2 of the Act of May 6, 1970 (21 U.S.C. 135a), is amended by—

(1) inserting “(a)” after “SEC. 2.” and

(2) adding at the end the following new subsection:

“(b) Any person who brings any animal to the quarantine station or moves any animal from the quarantine station, contrary to the conditions prescribed by the Secretary in regulations issued hereunder, may be assessed a civil penalty by the Secretary not to exceed \$1,000. The Secretary may issue an order assessing such civil

Notice; hearing.

28 USC 2341 *et*  
*seq.*

penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—H.R. 6679:**

HOUSE REPORT No. 97-875 (Comm. on Agriculture).  
CONGRESSIONAL RECORD, Vol. 128 (1982):  
Sept. 28, considered and passed House.  
Dec. 21, considered and passed Senate.

Public Law 97-462  
97th Congress

An Act

To amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.

Jan. 12, 1983  
[H.R. 7154]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Federal Rules of Civil Procedure Amendments Act of 1982”.

SEC. 2. The Federal Rules of Civil Procedure are amended as follows:

Federal Rules of  
Civil Procedure  
Amendments  
Act of 1982.  
28 USC 2071  
note.  
28 USC app.

(1) Rule 4(a) of such Rules is amended by striking out “it for service to the marshal or to any other person authorized by Rule 4(c) to serve it” and inserting in lieu thereof “the summons to the plaintiff or the plaintiff’s attorney, who shall be responsible for prompt service of the summons and a copy of the complaint”.

(2) Subsection (c) of Rule 4 of such Rules is amended to read as follows:

“(c) SERVICE.

“(1) Process, other than a subpoena or a summons and complaint, shall be served by a United States marshal or deputy United States marshal, or by a person specially appointed for that purpose.

“(2)(A) A summons and complaint shall, except as provided in subparagraphs (B) and (C) of this paragraph, be served by any person who is not a party and is not less than 18 years of age.

“(B) A summons and complaint shall, at the request of the party seeking service or such party’s attorney, be served by a United States marshal or deputy United States marshal, or by a person specially appointed by the court for that purpose, only—

“(i) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916,

“(ii) on behalf of the United States or an officer or agency of the United States, or

“(iii) pursuant to an order issued by the court stating that a United States marshal or deputy United States marshal, or a person specially appointed for that purpose, is required to serve the summons and complaint in order that service be properly effected in that particular action.

“(C) A summons and complaint may be served upon a defendant of any class referred to in paragraph (1) or (3) of subdivision (d) of this rule—

“(i) pursuant to the law of the State in which the district court is held for the service of summons or other like process upon such defendant in an action brought in the courts of general jurisdiction of that State, or

“(ii) by mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to

be served, together with two copies of a notice and acknowledgment conforming substantially to form 18-A and a return envelope, postage prepaid, addressed to the sender. If no acknowledgment of service under this subdivision of this rule is received by the sender within 20 days after the date of mailing, service of such summons and complaint shall be made under subparagraph (A) or (B) of this paragraph in the manner prescribed by subdivision (d)(1) or (d)(3).

“(D) Unless good cause is shown for not doing so the court shall order the payment of the costs of personal service by the person served if such person does not complete and return within 20 days after mailing, the notice and acknowledgment of receipt of summons.

“(E) The notice and acknowledgment of receipt of summons and complaint shall be executed under oath or affirmation.

“(3) The court shall freely make special appointments to serve summonses and complaints under paragraph (2)(B) of this subdivision of this rule and all other process under paragraph (1) of this subdivision of this rule.”

(3) Rule 4(d) of such Rules is amended—

(A) by striking out “SUMMONS: PERSONAL SERVICE” and inserting “SUMMONS AND COMPLAINT: PERSON TO BE SERVED” in lieu thereof; and

(B) by striking out paragraph 7.

(4) Rule 4(d)(5) of such Rules is amended—

(A) by striking out “delivering” and inserting “sending” in lieu thereof; and

(B) by inserting “by registered or certified mail” after “complaint”.

(5) Rule 4(e) of such Rules is amended by striking out “SAME” and inserting “SUMMONS” in lieu thereof.

(6) Subdivision (g) of Rule 4 of such Rules is amended to read as follows:

“(g) RETURN. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or deputy United States marshal, such person shall make affidavit thereof. If service is made under subdivision (c)(2)(C)(ii) of this rule, return shall be made by the sender’s filing with the court the acknowledgment received pursuant to such subdivision. Failure to make proof of service does not affect the validity of the service.”

(7) Rule 4 of such Rules is amended by adding at the end the following:

“(j) SUMMONS: TIME LIMIT FOR SERVICE. If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court’s own initiative with notice to such party or upon motion. This subdivision shall not apply to service in a foreign country pursuant to subdivision (i) of this rule.”

SEC. 3. The Appendix of Forms at the end of the Federal Rules of Civil Procedure is amended by inserting after Form 18 the following:

**"FORM 18-A.—NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL.****"United States District Court for the Southern District of New York**

<b>"A. B., Plaintiff</b> <b>v.</b> <b>"C. D., Defendant</b>	}	<b>"Civil Action, File Number _____</b>  <b>Notice and Acknowledgment of Receipt of Summons and Complaint</b>
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**"NOTICE****"To: (insert the name and address of the person to be served.)****"The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.****"You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.****"You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.****"If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.****"If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.****"I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on (insert date).****" \_\_\_\_\_**  
**Signature****" \_\_\_\_\_**  
**Date of Signature**

## “ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

“I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned manner at (insert address).

“ \_\_\_\_\_  
Signature

“ \_\_\_\_\_  
Relationship to Entity/Authority to  
Receive Service of Process

“ \_\_\_\_\_  
Date of Signature”.

Effective date.  
28 USC 2071  
note.  
28 USC 2071  
note.

SEC. 4. The amendments made by this Act shall take effect 45 days after the enactment of this Act.

SEC. 5. The amendments to the Federal Rules of Civil Procedure, the effective date of which was delayed by the Act entitled “An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure”, approved August 2, 1982 (96 Stat. 246), shall not take effect.

SEC. 6. Section 951 of title 18, United States Code, is amended by striking out “\$5,000” and inserting in lieu thereof “\$75,000”.

Approved January 12, 1983.

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LEGISLATIVE HISTORY—H.R. 7154:

CONGRESSIONAL RECORD, Vol. 128 (1982):

- Dec. 15, considered and passed House.
- Dec. 19, considered and passed Senate, amended.
- Dec. 20, House agreed to Senate amendment with an amendment.
- Dec. 21, Senate concurred in House amendment.

Public Law 97-463  
97th Congress

An Act

To amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail.

Jan. 12, 1983  
[S. 2863]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1875(d) of title 28, United States Code, is amended—

- (1) by inserting “(1)” immediately after “(d)”; and
- (2) by amending paragraph (2) to read as follows:

“(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action by retained counsel a reasonable attorney’s fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, where such costs were expended by the court pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney’s fee as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.”

SEC. 2. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

“Each person drawn for jury service may be served personally, or by registered, certified, or first-class mail addressed to such person at his usual residence or business address.”

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

“If such service is made by mail, the summons may be served by the marshal or by the clerk, the jury commission or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.”

SEC. 3. Chapter 121 of title 28, United States Code, is amended—

- (1) by adding at the end thereof the following:

**“§ 1877. Protection of jurors**

“(a) Subject to the provisions of this section and title 5 of the United States Code, subchapter 1 of chapter 81, title 5, United States Code, applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

“(b) In administering this section with respect to a juror covered by this section—

“(1) a juror is deemed to receive monthly pay at the minimum rate for grade GS-2 of the General Schedule unless his actual pay as a Government employee while serving on court leave is higher, in which case monthly pay is determined in accordance with section 8114 of title 5, United States Code, and

“(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in

Jurors and attorneys for Federal cases, protection and compensation. Attorneys’ fees.

28 USC 1877.

5 USC 8101.

Pay rate.  
5 USC 5332 note.



deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view.”; and

(2) by amending the table of sections for such chapter by adding after the item relating to section 1876, the following:

“1877. Protection of jurors.”.

SEC. 4. Section 8101 of title 5, United States Code, is amended in paragraph (F) of subsection (1) by striking out “juror” through the end of such paragraph and inserting in lieu thereof “juror;”.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—S. 2863:**

SENATE REPORT No. 97-674 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 21, considered and passed Senate and House.

Public Law 97-464  
97th Congress

An Act

To amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes.

Jan. 12, 1983

[S. 2273]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

“(4) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, \$1,281,000 for the fiscal year ending September 30, 1983.”.

(b) Section 7(b) of such Act is amended by striking out “and” after “1981;”, and by inserting “; and \$31,843,000 for the fiscal year ending September 30, 1983” before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out “and” after “1981;”, and by inserting “; and \$25,000,000 for the fiscal year ending September 30, 1983” before the period at the end thereof.

(d) Section 7(d) of such Act is amended by striking out “and” after “1981;”, and by inserting “; and \$475,000 for the fiscal year ending September 30, 1983” before the period at the end thereof.

(e) Section 7(e) of such Act is amended by striking out “the fiscal year ending September 30, 1982” and inserting in lieu thereof “each of the fiscal years ending September 30, 1982 and September 30, 1983”.

Earthquake  
Hazards  
Reduction Act of  
1977,  
amendment.

42 USC 7706.

Appropriation  
authorizations.  
42 USC 7704,  
7705.

TITLE II—MULTIHAZARD RESEARCH, PLANNING, AND  
MITIGATION

SEC. 201. Section 302 of Public Law 96-472 is amended by adding at the end thereof the following new subsection:

“(c) For the fiscal year ending September 30, 1983, there are authorized to be appropriated to the Director—

“(1) \$2,774,000 to carry out section 301, which amount shall include—

“(A) not less than \$300,000 to carry out the purposes of paragraphs (1) through (6) of such section;

“(B) such sums as may be necessary, but in any case not less than \$939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

“(C) not less than \$1,535,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earth-

Appropriation  
authorization.  
50 USC app. 2251  
note.

quake and with respect to other high seismic risk areas in the United States; and

“(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.”.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—S. 2273 (H.R. 6272):**

**HOUSE REPORTS:** No. 97-535, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science and Technology), both accompanying H.R. 6272.

**SENATE REPORT** No. 97-336 (Comm. on Commerce, Science, and Transportation).  
**CONGRESSIONAL RECORD**, Vol. 128 (1982):

Apr. 29, considered and passed Senate.

Sept. 14, H.R. 6272 considered and passed House; S. 2273, amended, passed in lieu.

Oct. 1, Senate agreed to House amendments with amendments; House concurred in certain Senate amendments and in another with an amendment.

Dec. 16, Senate concurred in House amendment.

Public Law 97-465  
97th Congress

An Act

To authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes.

Jan. 12, 1983

[S. 705]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of this Act—*

(1) the term “person” includes any State or any political subdivision or entity thereof;

(2) the term “interchange” means a land transfer in which the Secretary and another person exchange titles to lands or interests in lands of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and under such regulations as the Secretary may prescribe; and

(3) the term “Secretary” means the Secretary of Agriculture of the United States.

SEC. 2. The Secretary is authorized, when the Secretary determines it to be in the public interest—

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 3; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of approximately equal value, including the mineral estate, to the lands being conveyed by the Secretary. The Secretary shall insert in any such quitclaim deed such terms, covenants, conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.

SEC. 3. The National Forest System lands which may be sold, exchanged, or interchanged under this Act are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more than \$150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

National Forest  
System,  
land conveyance.  
16 USC 521c.  
Definitions.

16 USC 521d.

16 USC 521e.

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating that there was not such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

16 USC 521f.

SEC. 4. Any person to whom lands are conveyed under this Act shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under this Act, the Secretary may, in those cases in which the Secretary determines it would be in the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under this Act, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be in the public interest, waive payment by any person of costs incidental to any conveyance authorized by this Act or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

Right-of-way.

Waiver.

16 USC 521g.

SEC. 5. Conveyance of any road rights-of-way under this Act shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

Regulations.

16 USC 521h.

SEC. 6. The Secretary shall issue regulations to carry out the provisions of this Act, including specification of—

(1) criteria which shall be used in making the determination as to what constitutes the public interest;

(2) the definition of and the procedure for determining “approximately equal value”; and

(3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 3.

Restrictions.

16 USC 521i.

SEC. 7. Nothing in this Act shall authorize conveyance of Federal lands within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in this Act shall authorize sale of Federal lands, within National Recreation Areas.

16 USC 484a.

SEC. 8. (a) The Act of December 4, 1967 (81 Stat. 531), is amended by inserting before the phrase “public school district” wherever it appears, and before the phrase “public school authority” the second time it appears, the words “State, county, or municipal government or”.

(b) The Act of December 4, 1967 (81 Stat. 531), is further amended by adding the following at the end thereof: "Lands may be conveyed to any State, county, or municipal government pursuant to this Act only if the lands were being utilized by such entities on the date of enactment of this sentence. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance." 16 USC 484a.

Approved January 12, 1983.

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**LEGISLATIVE HISTORY—S. 705 (H.R. 3021):**

HOUSE REPORT No. 97-492, pt. 1 accompanying H.R. 3021 (Comm. on Agriculture).

SENATE REPORTS: No. 97-332 (Comm. on Agriculture, Nutrition, and Forestry) and No. 97-490 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 19, considered and passed Senate.

Dec. 21, considered and passed House.

Public Law 97-466  
97th Congress

## An Act

Jan. 13, 1983

[H.R. 5161]

To designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Monongahela  
National Forest,  
W. Va.  
Land  
designations.  
16 USC 1131  
note.  
16 USC 1132  
note.

## DESIGNATION OF WILDERNESS AREAS

SECTION 1. In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately thirty-five thousand six hundred acres, as generally depicted on a map entitled “Cranberry Wilderness—Proposed”, dated May 1982, and which shall be known as the Cranberry Wilderness: *Provided*, That for purposes of the Act of July 14, 1955 (69 Stat. 322) as amended, the Cranberry Wilderness may be reclassified only by Act of Congress enacted after the date of enactment of this Act;

(2) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled “Laurel Fork North Wilderness—Proposed”, dated November 1981, and which shall be known as the Laurel Fork North Wilderness; and

(3) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled “Laurel Fork South Wilderness—Proposed”, dated November 1981, and which shall be known as the Laurel Fork South Wilderness.

## MAPS AND DESCRIPTIONS

Filing.

SEC. 2. As soon as practicable after the provisions of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

Public  
availability.

## ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provision of this Act.

16 USC 1131  
note.

## DISPOSITION OF VALID EXISTING RIGHTS

SEC. 4. (a) The Secretary of the Interior (hereinafter in this Act referred to as "the Secretary"), in consultation with the Secretary of Agriculture, shall acquire:

(1) all nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness; and

(2) coal deposits and mineral interests and rights outside the boundaries of the Cranberry Wilderness which are—

(A) contiguous to the deposits, mineral interests, and rights referred to in paragraph (1) and owned by the person or entity which owns the deposits, interests, and rights referred to in paragraph (1); or

(B) economically accessible only through the exercise of rights held within the wilderness.

(b) For purposes of carrying out the acquisition required under subsection (a), not later than three months after the date of enactment of this Act, the Secretary shall initiate negotiations with the owner of the coal deposits or other mineral interests and rights within the Cranberry Wilderness.

Negotiations.

(c)(1) The Secretary shall conduct such coal or mineral evaluations with respect to the coal or other mineral interests or rights within the Cranberry Wilderness as may be necessary to determine fair market value. The fair market value of any rights as may exist shall be determined without reference to any restriction on access or use which may result from designation of the area as a wilderness. In determining fair market value the Secretary may contract with the owner to perform any necessary exploratory drilling or other evaluation work and may compensate the owner therefor through payment of money or as an addition to the monetary credit under this Act. Where the Secretary conducts such evaluations, he shall provide the owner with all data available to the Secretary as a result of the evaluations.

Fair market  
value.

(2) Within one year of the date of enactment of this Act, the Secretary, in consultation with the owner shall determine the present fair market value of coal deposits and mineral interests and rights.

(A) The determination of fair market value shall be based on the replacement cost of the unmined recoverable coal deposits and mineral interests and rights in the ground, taking into account comparable sales recoverable minerals of comparable nature in the ground in the eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of such minerals.



Monetary  
credits.

(B) Upon voluntary surrender and relinquishment by the owner of all nonfederally owned coal deposits and other mineral interests and rights in the Cranberry Wilderness, the Secretary shall extend to the owner, its successors and assigns, a monetary credit to be used against that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease or other Federal property competitively won or otherwise held by the applicant, its successors, or assigns. The monetary credit may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary. In lieu of the monetary credits described above, the Secretary may, at his sole option, purchase the mineral rights referred to above.

(C) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the owner's mineral interests as determined pursuant to subsection (c) of this section. Such credit shall be used over a period of years with not more than ten percent of the credit to be used in any one year.

Fair market  
value.

(d) In the event the Secretary and the owner cannot agree on fair market value within one year of the date of enactment of this Act, either the Secretary or the owner shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said Court shall have jurisdiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

Appropriation  
authorization.

(e) Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to establish the value of the nonfederally owned mineral interests or rights lying within the Cranberry Wilderness area. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the other provisions of this Act: *Provided*, That no payment shall be effective except to the extent or in such amounts as are provided in advance in Appropriation Acts.

(f) Exploration activities, including core drilling and use of mechanized ground equipment, shall be allowed in the Cranberry Wilderness designated by this Act to determine the value of the nonfederally owned mineral resources therein, under such reasonable stipulations and conditions as may be imposed by the Secretary of Agriculture.

#### OTHER PROVISIONS

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of West Virginia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System

lands in States other than West Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of West Virginia;

(2) with respect to the National Forest System lands in the State of West Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

16 USC 1600  
note.  
16 USC 1600  
note.

(3) areas in the State of West Virginia reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of West Virginia for the purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

Restriction.

#### POCAHONTAS COUNTY AND WEBSTER COUNTY, WEST VIRGINIA

SEC. 6. Notwithstanding any other provision of law, effective October 1, 1983, there is hereby authorized to be appropriated up to \$2,200,000 to be paid to Pocahontas and Webster Counties, West Virginia; such sum in compensation for property tax revenues and other taxes or payments foregone by the aforementioned counties as a consequence of the acquisition of the nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness as designated by this Act.

Appropriation  
authorization.

Approved January 13, 1983.

#### LEGISLATIVE HISTORY—H.R. 5161:

HOUSE REPORT No. 97-561, pt. 1 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

June 14, considered and passed House.

Dec. 18, considered and passed Senate, amended.

Dec. 20, House agreed to Senate amendment with an amendment; Senate agreed to House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 2 (1983):

Jan. 13, Presidential statement.

Public Law 97-467  
97th Congress

An Act

Jan. 14, 1983

[H.R. 6538]

To designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building".

Tennyson  
Guyer Federal  
Building.  
Designation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the building located at 401 West North Street, Lima, Ohio, 45801, known as the Lima Federal Building, shall hereafter be known and designated as the "Tennyson Guyer Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to the Lima Federal Building shall be deemed to be a reference to the Tennyson Guyer Federal Building.

Approved January 14, 1983.

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LEGISLATIVE HISTORY—H.R. 6538:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.

Public Law 97-468  
97th Congress

An Act

Making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

Jan. 14, 1983

[H.R. 3420]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That titles II through VII of this Act may be cited as the “Rail Safety and Service Improvement Act of 1982”.

Rail Safety and  
Service  
Improvement  
Act of 1982.  
45 USC 421 note.

**TITLE I—NATURAL GAS PIPELINE SAFETY**

SEC. 101. Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673(b)) and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) are each amended by striking “once every 6 months.” and substituting “twice each calendar year.”.

SEC. 102. Section 8(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1675(a)) is amended by striking “sixtieth day” and substituting “90th day”.

SEC. 103. Section 206(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2005(a)) is amended by striking “60th day” and substituting “90th day”.

SEC. 104. Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674(a)) is amended by striking “(other than subsection (a)(3) thereof)” and substituting “(other than subsection (a)(2) thereof)”.

**TITLE II—BANKRUPT RAILROADS**

**SHORT TITLE**

SEC. 201. This title may be referred to as the “Bankrupt Railroad Service Preservation and Employee Protection Act of 1982”.

Bankrupt  
Railroad  
Service  
Preservation and  
Employee  
Protection  
Act of 1982.  
45 USC 901 note.

**Subtitle A—Service Preservation**

**PURPOSE**

SEC. 211. It is the purpose of this subtitle to continue the effort by Congress to assure service over the lines of rail carriers subject to liquidation in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

45 USC 901 note.

**FINDINGS**

SEC. 212. The Congress finds that—

(1) it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and

45 USC 901 note.

where the financially responsible person seeks to provide rail service over the line;

(2) procedures set forth in the amendments made by this title represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

#### AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 213. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

“(B) The Commission shall, within 15 days after the filing of an application under subparagraph (A) of this paragraph, determine whether the applicant—

“(i) is a financially responsible person; and

“(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

“(C)(i) If the Commission's determination under subparagraph (B) of this paragraph is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B) of this paragraph, either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D) of this paragraph, except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

“(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

“(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C) of this paragraph, the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph. Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than that required as a constitutional minimum.

“(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

“(E) The Commission shall require that any person acquiring a line or lines under this paragraph use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

“(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

“(G) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe such regulations and procedures as are necessary to carry out the provisions of this paragraph.

“(H) As used in this paragraph, the term—

Definitions.

“(i) ‘carrier subject to liquidation’ means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties;

*Ante*, p. 2543.

11 USC 1161.

“(ii) ‘the court’ means the court having bankruptcy jurisdiction over the carrier subject to liquidation; and

“(iii) ‘financially responsible person’ means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years.”

#### INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. (a) Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended—

(1) by striking “the Rock Island Railroad or the Milwaukee Railroad” and inserting in lieu thereof the following: “a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code”;

(2) by striking the last sentence of such section; and

(3) by adding at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of any such carrier which has been ordered by the court having jurisdiction over such a carrier to liquidate its properties until the disposition of the properties of the estate of such carrier."

(b) Section 122(c) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(c)) is repealed.

### Subtitle B—Employee Protection

#### EMPLOYEE PROTECTION AGREEMENT

SEC. 231. Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

#### "EMPLOYEE PROTECTION AGREEMENT

"SEC. 106. (a) The Secretary and the representatives of the various classes and crafts of employees of the Rock Island Railroad shall, not later than 90 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, enter into an agreement providing protection for employees of the Rock Island Railroad who are adversely affected as a result of a reduction in service by such Railroad. Such agreement may provide for the use of funds described in subsection (c) of this section for the following purposes:

"(1) Subsistence allowances to employees.

"(2) Moving expenses for employees who must make a change in residence.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Separation allowances for employees.

"(5) Health and welfare insurance premiums.

"(6) Such other purposes as may be agreed upon by the parties.

"(b) If the parties are unable to reach agreement within the time period specified in subsection (a) of this section, the Secretary shall, within 30 days after the expiration of such time period, prescribe a schedule of benefits for employee protection not inconsistent with the provisions of this Act.

"(c) Any agreement entered into under subsection (a) of this section, and any benefit schedule prescribed under subsection (b) of this section, shall not require the expenditure of funds in excess of amounts authorized to be appropriated under section 217(f)(1)(C) of the Regional Rail Reorganization Act of 1973, nor shall any individual employee receive benefits in excess of \$20,000 under such agreement or benefit schedule. No benefits or assistance may be provided under any agreement entered into or benefit schedule prescribed under this section after April 1, 1984.

"(d) The Board shall, in such manner as it shall prescribe by regulation, administer the distribution of funds under any agreement entered into or benefit schedule prescribed under this section, and shall determine the amount for which each employee is eligible under such agreement or benefit schedule. Such regulation shall include procedures to resolve by final and binding arbitration any dispute over an employee's eligibility or claim."

*Ante*, p. 2543.

Schedule of  
benefits.

*Post*, p. 2552.

**ELECTION**

**SEC. 232.** Section 108 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007) is amended—

(1) in subsections (a) and (d), by striking “or arrangement entered into” and inserting in lieu thereof “entered into or benefit schedule prescribed”; and

(2) in subsection (b), by striking “April 1, 1981” and inserting in lieu thereof “120 days after the effective date of any agreement entered into under section 106(a) of this title or of any benefit schedule prescribed under section 106(b) of this title, as the case may be”.

**NEW CAREER TRAINING ASSISTANCE**

**SEC. 233.** Section 119(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1014(a)) is amended by striking “from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may” and inserting in lieu thereof “under an employee protection agreement entered into or a benefit schedule prescribed under section 106 of this title may, if so provided under such agreement or benefit schedule.”.

**REPEALS**

**SEC. 234.** (a) Section 110 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008) is repealed.

(b) The second sentence of section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is repealed.

**DISPUTE RESOLUTION**

**SEC. 235.** (a) Section 704(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(c)) is amended by striking “3-year” and inserting in lieu thereof “4-year”. 45 USC 797c.

(b) Section 704(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(g)) is amended by striking “this section or section 703 of this Act” wherever it appears and inserting in lieu thereof “this section, section 703 of this Act, section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), or section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004)”. 45 USC 797c.

**RAILROAD HIRING**

**SEC. 236.** (a) Section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) is amended by striking “April 1, 1981,” and inserting in lieu thereof “April 1, 1984,”.

(b) Section 105(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004(a)) is amended by striking “January 1, 1981,” and inserting in lieu thereof “January 1, 1984,”.

**TITLE III—NORTHEAST CORRIDOR****AMENDMENTS**

**SEC. 301.** Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:



45 USC 853.

(1) Section 703(1)(A)(ii) is amended by striking "and Albany, New York" and inserting in lieu thereof "Albany, New York, and Atlantic City, New Jersey".

45 USC 854.

(2) Section 704(a)(1) is amended to read as follows:

"(1) \$2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, of which not less than \$27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title; (B) of which, if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New Jersey that such State has approved a plan, developed in consultation with the National Railroad Passenger Corporation, for the operation of rail passenger service between the main line of the Northeast Corridor and Atlantic City, New Jersey, and if such Corporation determines that such plan is feasible, \$30,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between such points, consistent with the plan for operation approved by the State, in order to ensure that such track will be of sufficient quality to permit safe rail passenger service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote rail passenger use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast Corridor: development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility between Washington, District of Columbia, and New York, New York; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control

from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York;”.

(3) Section 704(a) is amended by adding at the end thereof the following new sentences: “Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend or reserve for expenditure funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph; and (B) in the amount of \$62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982. The amount so expended or reserved for expenditure for the purposes of paragraph (1)(B) of this subsection for the fiscal year ending September 30, 1983 shall be \$10,000,000.”.

45 USC 854.

(4) Section 704(b) is amended—

(A) by striking “LIMITATION.—” and inserting in lieu thereof “LIMITATIONS.—(1)”; and

(B) by adding at the end thereof the following:

“(2)(A) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled Corridor Master Plan II, NECIP Restructured Program, dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect/engineer.

“(B) For purposes of implementing the improvements and rehabilitation described in subsection (a)(1)(B) of this section, the Secretary may defer projects identified in the document referred to in subparagraph (A) of this paragraph. The aggregate cost of such projects as the Secretary may so defer shall not be substantially greater than the amount the Secretary is required to expend or reserve for expenditure for purposes of subsection (a)(1)(B) of this section.”.

Deferrals.

45 USC 855.

**(5) Section 705 is amended—**

(A) in subsection (a), by striking “the” after “reallocation to” and inserting in lieu thereof “such”; and

(B) in subsection (b), by inserting “National Railroad Passenger” immediately before “Corporation”.

**NEW SERVICE**

45 USC 854 note.

**SEC. 302.** (a) If the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from the State of New York that such State has approved a plan, developed in consultation with such Corporation, for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast Corridor, and has approved a plan, developed in consultation with such Corporation and appropriate local governmental officials, for the rehabilitation of the Amtrak station at Syracuse, New York, such Corporation shall, by September 30, 1985, expend funds, not in excess of \$30,000,000, authorized to be appropriated under section 601 of the Rail Passenger Service Act (45 U.S.C. 601) for such purposes.

45 USC 854 note.

(b) Notwithstanding the provisions of section 403 of the Rail Passenger Service Act (45 U.S.C. 563), the National Railroad Passenger Corporation may operate the service described in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976.

(c) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

“(e) Funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985 shall, if the Corporation receives the notification referred to in section 302(a) of the Rail Safety and Service Improvement Act of 1982, be first expended or reserved for expenditure by the Corporation for the purposes under such section 302(a). The amount expended or reserved for expenditure for such purposes for the fiscal year ending September 30, 1983 shall be \$10,000,000.”.

**TITLE IV—RAILROAD FINANCING****EXTENSION**

**SEC. 401.** Sections 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking “September 30, 1982” wherever it appears and inserting in lieu thereof “September 30, 1985”.

**TRANSACTION ASSISTANCE**

45 USC 825a.

**SEC. 402.** Notwithstanding any other provision of law, any financially responsible person (including any government authority), except for a class I rail carrier, shall upon application be eligible for financial assistance made available in section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) for the purchase, lease, or rehabilitation of rail lines of the Consolidated Rail Corporation which are to be used for common carrier rail service and with respect to which an application for a certificate of abandonment has been filed with the Interstate Commerce Commis-

sion under section 308(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(a)), or a notice of insufficient revenues has been filed with the Commission under section 308(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748(c)).

#### AUTHORIZATION FOR RAIL FUND

SEC. 403. (a) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) in paragraph (2), by striking “Not less than” and inserting in lieu thereof “Not more than”;

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3);

(4) in paragraph (3), as redesignated by paragraph (3) of this section—

(A) by striking “, (2) and (3)” and inserting in lieu thereof “and (2)”; and

(B) by inserting “, and not more than \$55,000,000 are authorized to be appropriated for fiscal years 1983, 1984 and 1985” immediately before the period; and

(5) by adding at the end thereof the following new paragraphs:

“(4) \$40,000,000 of the funds received by the Secretary of the Treasury from amounts appropriated under subsection (a) of this section shall be reserved and made available for meritorious applications regarding that restructuring of rail freight facilities and systems specified in section 505(b)(2)(ii) of this title.

“(5) \$15,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase, or for the refinancing of the purchase, of the rail line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, or of interests in such rail line, by a State or one or more political subdivisions thereof. To the extent that funds are made available for such purposes through appropriations for any Administration of the Department of Transportation, other than the Federal Railroad Administration, the amount of funds authorized under this section shall be reduced accordingly.”.

(b) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting “(i)” immediately after “priorities”; and

(2) by inserting “(ii)” immediately after “in the private sector and”.

#### TITLE V—MISCELLANEOUS PROVISIONS

##### LOCAL RAIL SERVICE

SEC. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

“(A) two-thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is ‘potentially subject to abandonment’ or with respect to which a carrier plans to file, or has filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to

95 Stat. 679.

be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, or has filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748) or under section 10904(a) of title 49, United States Code, and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and".

## CONTRACT RATES

SEC. 502. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper)" and inserting in lieu thereof "but not including wood pulp, wood chips, pulpwood or paper)".

## BURNHAM CANAL

33 USC 59t.

SEC. 503. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

## COMMUTER TRANSITION FUNDING

95 Stat. 652.  
45 USC 744a  
note.

SEC. 504. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

- (1) by inserting "(1)" immediately after "(b)";
- (2) by striking "in the fiscal year ending September 30, 1982,";
- (3) by striking "contracting with Amtrak Commuter"; and
- (4) by adding at the end thereof the following new paragraph:

"(2) Any funds appropriated under the authority of this subsection shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) of this subsection within 60 days after receipt of an application by Amtrak Commuter or such commuter authorities or within 60 days after the date of enactment of the Rail Safety and Service Improvement Act of 1982, whichever is later."

Ante, p. 2543.

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

- (1) by inserting "(1)" immediately after "APPROPRIATION.—"; and

- (2) by adding at the end thereof the following new paragraph:

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981."

(c)(1) Section 217(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(a)) is amended by striking "\$262,000,000" and inserting in lieu thereof "\$137,000,000".

95 Stat. 653.

(2) Section 217(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(f)) is amended to read as follows:

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There is authorized to be appropriated not to exceed \$262,000,000—

“(A) of which not to exceed \$137,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act;

45 USC 761.

“(B) of which not to exceed \$75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981;

95 Stat. 652.  
45 USC 744a.  
note.

“(C) of which not to exceed \$35,000,000 shall be appropriated to the Secretary to be allocated for employee protection under section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005); and

“(D) of which not to exceed \$15,000,000 shall be appropriated to the Secretary to facilitate the transfer of rail commuter services from railroads that entered reorganization after calendar year 1974 to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

“(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) of this subsection shall be deposited in the general fund of the Treasury.

“(3) The amount authorized to be appropriated under paragraph (1)(B) of this subsection shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts.”

45 USC 726.

#### INTERCITY PASSENGER SERVICE EMPLOYEE PROTECTION

SEC. 505. (a) Section 1165 of the Northeast Rail Service Act of 1981 is amended—

95 Stat. 686.  
45 USC 1113.

(1) by inserting “(a)” immediately after “Sec. 1165.”; and

(2) by adding at the end thereof the following new subsection:

“(b) Conrail employees who are deprived of employment by an assumption or discontinuance of intercity passenger service by Amtrak shall be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.”

95 Stat. 661.

#### RAILROAD DEVELOPMENT CRITERIA

SEC. 506. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by striking “has been placed” and inserting in lieu thereof “is”, and by inserting “before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section” immediately after “10903 and 10904 of this title”.

Effective date.  
49 USC 10910  
note.

(b) The amendment made by subsection (a) of this section shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision before May 1, 1982, except that such amendment shall not affect any line which has been removed from the carrier's system diagram map before the date of enactment of this Act.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There is authorized to be appropriated to the Secretary of Transportation \$15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed \$9,200,000 shall be used for executive direction and administration and not to exceed \$6,400,000 shall be used for policy support.

#### NORTHEAST CORRIDOR COORDINATION

95 Stat. 650.

SEC. 508. Section 505 of the Rail Passenger Service Act (45 U.S.C. 585) is amended—

(1) by striking "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

(2) by adding at the end thereof the following new subsection:  
"(c) The Northeast Corridor Coordination Board shall consist of (1) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(a)(3)), which operates or contracts for the operation of rail commuter service over the main line of the Northeast Corridor; (2) two members to be named by Amtrak; and (3) one member to be named by the Consolidated Rail Corporation."

95 Stat. 645.

#### APPLICABILITY OF LAWS

SEC. 509. Title V of the Rail Passenger Service Act (45 U.S.C. 581 et seq.) is amended by adding at the end thereof the following new section:

45 USC 591.

"SEC. 511. APPLICABILITY OF LAWS.

"Any commuter authority operating commuter service under this title shall be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)."

#### COMMISSION PROCEEDINGS

95 Stat. 685.

SEC. 510. Section 1164(c) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1112(c)) is amended—

(1) in paragraph (1)—

(A) by striking "bankruptcy, substantial sale," and inserting in lieu thereof "bankruptcy or substantial sale"; and

(B) by amending the last sentence to read as follows: "The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary

deems appropriate and which conform to the terms set forth in this subsection.”;

(2) by amending paragraph (2) to read as follows:

“(2) If the interest of the United States is limited under paragraph (1), any new debt issued by such a railroad subsequent to the issuance of the debt described in paragraph (1) may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such paragraph as the Secretary and the railroad may agree.”; and

(3) by adding at the end thereof the following new paragraph:

“(3) In carrying out the duties under this subsection, the Secretary may (A) enter into such agreements, (B) in accordance with any such agreements, cancel or cause to be cancelled or amend or cause to be amended any notes or securities currently held by agencies or instrumentalities of the United States, and (C) accept in exchange as substitution therefor such instruments evidencing the indebtedness owed to such agencies or instrumentalities as, in the Secretary’s judgment, will effectuate the purposes of this subsection.”.

#### FEEDER LINE TRANSFER

SEC. 511. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide Federal financial assistance, in accordance with the provisions of this section, for the acquisition and rehabilitation (including related new construction of sidings and connecting tracks) of the feeder line which the Illinois Central Gulf Railroad has abandoned extending between Milepost 72 near Herscher, Illinois and Milepost 135 near Barnes, Illinois (known as the “Bloomer Line”).

(b) In carrying out this section, the Secretary shall provide assistance to a qualified applicant in an amount not to exceed 90 percent of the acquisition costs and 80 percent of the rehabilitation costs associated with the redevelopment of the feeder line. Any qualified applicant may provide the non-Federal share of the costs of such project.

(c) If an application is filed with the Secretary which is supported by a preponderance of the rail service users on the feeder line or segment of such line for which such an application is filed, the Secretary shall act expeditiously on such application. If the Secretary denies an application filed under this section, the Secretary must provide to the applicant a contemporaneous statement of reasons for the denial and a list of the specific amendments to the application which, if made, would cause the Secretary to approve such application.

(d) If the entity purchasing the line described in subsection (a) of this section petitions the Interstate Commerce Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practically participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of title 49, United States Code, require the establishment of reasonable joint rates and divisions over such route.

(e) There is authorized to be appropriated \$3,000,000 to carry out this section.

(f) As used in this section, the term “qualified applicant” means—

(1) a State or local governmental entity;

Appropriation  
authorization.

“Qualified  
applicant.”



(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad  
Transfer Act of  
1982.

## TITLE VI—ALASKA RAILROAD TRANSFER

### SHORT TITLE

45 USC 1201  
note.

**SEC. 601.** This title may be cited as the “Alaska Railroad Transfer Act of 1982”.

### FINDINGS

45 USC 1201.

**SEC. 602.** The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

### DEFINITIONS

45 USC 1202.

**SEC. 603.** As used in this title, the term—

(1) “Alaska Railroad” means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

## TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term “accrue” shall have the meaning contained in section 2401 of title 28, United States Code.

“Accrue.”

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 *et seq.*

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

#### TRANSITION PERIOD

Report to Congress and State legislature.  
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of \$300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).



45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new paragraph:  
“(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.”.

#### LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

*Post*, p. 2568.

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghoththele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking “subsection 12(b)(6)” and inserting in lieu thereof “section 12(b) (5) and (6)”;

(B) by striking “12(b)(7)(ii)” and inserting in lieu thereof “12(b)(7)(iv)”;

(C) by striking “crediting” and inserting in lieu thereof “using”;

(D) by striking “this subsection 12(b)(7)(i)(b)” and inserting in lieu thereof “these subsections 12(b)(7) (i)(b) or (ii)”;

(E) by striking “State” in the last sentence and inserting in lieu thereof “state”; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

“(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

“(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

43 USC 1611  
note.

“(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

“(C) as used in this subsection, ‘real property’ means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

“Real  
property.”

“(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the ‘Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)’, dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.”

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

43 USC 1611  
note.

(A) by striking “surplus” the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: “or paying for the conveyance of property pursuant to subsections (i) or (ii)”;

(C) by inserting immediately after “account shall be” the following: “the sum of (1)”;

(D) by striking “I(C)(2)(e)” and inserting in lieu thereof “I(C)(2)(e)(iii)(A)”;

(E) by striking “the effective date of this subsection”, and inserting in lieu thereof “December 2, 1980”;

(F) by striking “and shall be adjusted” and inserting in lieu thereof “and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)".

43 USC 1611  
note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611  
note.

(5) Section 12(b)(8) of such Act is amended to read as follows: "12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

*Post*, p. 2570.

"(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

“(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State’s consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

*Ante*, p. 2564.

*Ante*, p. 2568.

*Ante*, p. 2556.

“(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

“(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

“(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

“(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

“(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

“(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

“(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

“(D) such other remedial legislation or administrative action as may be needed; and

“(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.”.

48 USC 1611  
note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

*Ante*, p. 2568.

“12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however*, That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

48 USC note  
prec. 21.

43 USC 1635.  
43 USC 1611,  
1615, 1621.  
43 USC 1611  
note.  
94 Stat. 2499,  
2501-2515,  
2518-2544, 2546.

43 USC 1611  
note.

“12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking ‘withdrawn’ and inserting in lieu thereof ‘withdrawn or formerly withdrawn’; (2) by striking ‘17(d)(1)’ and inserting in lieu thereof ‘17(d)(1) and (2)’; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: ‘Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.’.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1635.  
48 USC note  
prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)."

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

45 USC 1205.

#### EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

45 USC 1206.

5 USC 8331.



Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

#### STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available. 45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

#### FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

#### REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

45 USC 1209.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

Publication in  
Federal  
Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

#### OTHER DISPOSITION

45 USC 1210.

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

*Ante*, p. 2564.

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

#### DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

#### APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212.

5 USC 500 *et seq.*

5 USC app.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

#### CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

45 USC 1213.

#### REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

16 USC 353a.

48 USC 301a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation “(b)”.

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking “and the Alaska Railroad”.

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting “or” at the end of paragraph (1)(B);

(B) by striking “; or” at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking “employees of the Alaska Railroad and”.

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after “National Transportation Safety Board,” the following: “the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,”.

#### SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

## TITLE VII—RAIL SAFETY

Federal Railroad  
Safety  
Authorization  
Act of 1982.

## SHORT TITLE

SEC. 701. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982".

45 USC 421 note.

## REGULATORY AUTHORITY

SEC. 702. (a) Section 202(h)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(h)(1)) is amended to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue such initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of any such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall also consider relevant differences between commuter and intercity passenger service. The Secretary shall periodically review any such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in any such rules, regulations, orders, and standards as may be necessary.

"(B) The Secretary shall submit to the Congress a report within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under subparagraph (A) of this paragraph which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration."

Report to  
Congress.  
*Supra.*

(b) The Secretary of Transportation shall, before March 1, 1983, conduct a study of the training of onboard operating and service railroad personnel in evacuation procedures and the use of emergency equipment. The Secretary shall consider, as part of such study, Federal regulations and procedures applicable to other modes of transportation. The Secretary shall submit the results of such study to the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

Study.

(c) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subsections:

Submittal to  
congressional  
committees.

"(i) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area.

Rules and  
regulations.

"(j) The Secretary shall, within 60 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, report to the Congress on whether to issue rules, regulations, orders,

Report to  
Congress.



"All areas of  
railroad safety."

and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light.

"(k) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979."

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 703. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding immediately after subsection (b) the following new subsection:

45 USC 435.

"(c)(1) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and paragraph (3) of this subsection, not to exceed \$29,300,000 for the fiscal year ending September 30, 1983, and not to exceed \$31,400,000 for the fiscal year ending September 30, 1984.

"(2) To carry out the provisions of section 206(d) of this title relating to State safety programs, there are authorized to be appropriated not to exceed \$2,700,000 for the fiscal year ending September 30, 1983, and not to exceed \$2,900,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of conducting safety research and development activities under this Act, there are authorized to be appropriated not to exceed \$20,000,000 for the fiscal year ending September 30, 1983, and not to exceed \$21,000,000 for the fiscal year ending September 30, 1984, including funds for assisting in the treatment of alcohol and drug abuse problems of railroad employees."

#### MOVEMENT FOR REPAIR

45 USC 15.

SEC. 704. Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof the following: "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling,".

#### ASH PAN ACT

Repeal.

SEC. 705. The Act of May 30, 1908 (45 U.S.C. 17 through 21), commonly referred to as the Ash Pan Act, is repealed.

## RESPONSIBILITY FOR COMPLIANCE

SEC. 706. Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended to read as follows:

“(a) It shall be unlawful for any railroad to fail to comply with any rule, regulation, order, or standard prescribed by the Secretary under this title.”.

Approved January 14, 1983.

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**LEGISLATIVE HISTORY—H.R. 3420 (S. 1099):**

**HOUSE REPORTS:** No. 97-89, Pt. I (Comm. on Public Works and Transportation) and Pt. II (Comm. on Energy and Commerce).

**SENATE REPORT** No. 97-74 accompanying S. 1099 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 127 (1981): June 1, considered and passed House.

June 2, S. 1099 considered and passed Senate; proceedings vacated.

July 17, H.R. 3420 considered and passed Senate, amended.

Vol. 128 (1982): Dec. 20, House agreed to Senate amendments with amendments.

Dec. 21, Senate concurred in House amendments with amendments; House concurred in Senate amendments.

Public Law 97-469  
97th Congress

## Joint Resolution

Jan. 14, 1983

[H.J. Res. 635]

Establishing the dates for submission of the Budget and Economic Report.

Budget and  
Economic  
Reports,  
transmittal to  
Congress.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) notwithstanding the provisions of section 1105 of title 31, United States Code, the President shall transmit to the Congress not later than January 31, 1983, the budget for the fiscal year 1984, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022) the President shall transmit to the Congress not later than January 31, 1983, the Economic Report.

SEC. 2. That (a) notwithstanding the provisions of section 1109(a) of title 31, United States Code, the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the fiscal year 1984 not later than the date on which the President transmits to the Congress the budget for the fiscal year 1984, and (b) notwithstanding the provisions of section 1109(b) of title 31, United States Code, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the fiscal year 1984 not later than the date on which the report for the fiscal year 1984 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

Approved January 14, 1983.

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LEGISLATIVE HISTORY—H.J. Res. 635:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 20, considered and passed House.

Dec. 21, considered and passed Senate.

Public Law 97-470  
97th Congress

An Act

To provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes.

Jan. 14, 1983

[H.R. 7102]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Migrant and  
Seasonal  
Agricultural  
Worker  
Protection Act.....  
29 USC 1801  
note.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act".

TABLE OF CONTENTS

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. Application of Act.

TITLE I—FARM LABOR CONTRACTORS

- Sec. 101. Certificate of registration required.
- Sec. 102. Issuance of certificate of registration.
- Sec. 103. Registration determinations.
- Sec. 104. Transfer or assignment; expiration; renewal.
- Sec. 105. Notice of address change; amendment of certificate of registration.
- Sec. 106. Prohibition against employing illegal aliens.

TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

- Sec. 201. Information and recordkeeping requirements.
- Sec. 202. Wages, supplies, and other working arrangements.
- Sec. 203. Safety and health of housing.

TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

- Sec. 301. Information and recordkeeping requirements.
- Sec. 302. Wages, supplies, and other working arrangements.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

- Sec. 401. Motor vehicle safety.
- Sec. 402. Confirmation of registration.
- Sec. 403. Information on employment conditions.
- Sec. 404. Compliance with written agreements.

TITLE V—GENERAL PROVISIONS

PART A—ENFORCEMENT PROVISIONS

- Sec. 501. Criminal sanctions.
- Sec. 502. Judicial enforcement.
- Sec. 503. Administrative sanctions.
- Sec. 504. Private right of action.
- Sec. 505. Discrimination prohibited.
- Sec. 506. Waiver of rights.

PART B—ADMINISTRATIVE REGULATIONS

- Sec. 511. Rules and regulations.
- Sec. 512. Authority to obtain information.
- Sec. 513. Agreements with Federal and State agencies.

## PART C—MISCELLANEOUS PROVISIONS

- Sec. 521. State laws and regulations.  
Sec. 522. Transition provision.  
Sec. 523. Repealer.  
Sec. 524. Effective date.

## PURPOSE

29 USC 1801.

**SEC. 2.** It is the purpose of this Act to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

## DEFINITIONS

29 USC 1802.

**SEC. 3.** As used in this Act—

(1) The term “agricultural association” means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(2) The term “agricultural employer” means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(3) The term “agricultural employment” means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(4) The term “day-haul operation” means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day.

(5) The term “employ” has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act.

(6) The term “farm labor contracting activity” means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(7) The term “farm labor contractor” means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(8)(A) Except as provided in subparagraph (B), the term “migrant agricultural worker” means an individual who is employed in agricultural employment of a seasonal or other

temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term “migrant agricultural worker” does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(9) The term “person” means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term “seasonal agricultural worker” means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term “seasonal agricultural worker” does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(11) The term “Secretary” means the Secretary of Labor or the Secretary’s authorized representative.

(12) The term “State” means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

#### APPLICABILITY OF ACT

SEC. 4. (a) The following persons are not subject to this Act: 29 USC 1803.

(1) **FAMILY BUSINESS EXEMPTION.**—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) **SMALL BUSINESS EXEMPTION.**—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

8 USC 1101,  
1184.

(3) **OTHER EXEMPTIONS.**—(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, de-sexing, or health service operation provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.

(G)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(H)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

(b) Title I of this Act does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

## TITLE I—FARM LABOR CONTRACTORS

## CERTIFICATE OF REGISTRATION REQUIRED

SEC. 101. (a) No person shall engage in any farm labor contracting activity, unless such person has a certificate of registration from the Secretary specifying which farm labor contracting activities such person is authorized to perform. 29 USC 1811.

(b) A farm labor contractor shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of the farm labor contractor employer, which authorizes the activity for which such individual is hired, employed, or used. The farm labor contractor shall be held responsible for violations of this Act or any regulation under this Act by any employee regardless of whether the employee possesses a certificate of registration based on the contractor's certificate of registration.

(c) Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities a certificate of registration and, upon request, shall exhibit that certificate to all persons with whom they intend to deal as a farm labor contractor or farm labor contractor employee.

(d) The facilities and the services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), known as the Wagner-Peyser Act, shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a certificate of registration.

## ISSUANCE OF CERTIFICATE OF REGISTRATION

SEC. 102. The Secretary, after appropriate investigation and approval, shall issue a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application containing the following: 29 USC 1812.

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 401 with respect to each such vehicle;

(3) a statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 203 with respect to each such facility or real property;

(4) a set of fingerprints of the applicant; and

(5) a declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in



which the action is commenced or otherwise has become unavailable to accept service.

#### REGISTRATION DETERMINATIONS

29 USC 1813.

SEC. 103. (a) In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) if the applicant or holder—

(1) has knowingly made any misrepresentation in the application for such certificate;

(2) is not the real party in interest in the application or certificate of registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(3) has failed to comply with this Act or any regulation under this Act;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this Act or any regulation under this Act or under the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act, or

(B) to comply with any final order issued by the Secretary as a result of a violation of this Act or any regulation under this Act or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act; or

(5) has been convicted within the preceding five years—

(A) of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any farm labor contracting activities; or

(B) of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally.

*Post*, p. 2600.

Hearing.

(b)(1) The person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked under subsection (a) shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of the refusal, suspension, or revocation. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

28 USC 1291 *et seq.*

#### TRANSFER OR ASSIGNMENT; EXPIRATION; RENEWAL

SEC. 104. (a) A certificate of registration may not be transferred or assigned.

29 USC 1814.

(b)(1) Unless earlier suspended or revoked, a certificate shall expire twelve months from the date of issuance, except that (A) certificates issued under this Act during the period beginning December 1, 1982, and ending November 30, 1983, may be issued for a period of up to twenty-four months for the purpose of an orderly transition to registration under this Act, (B) a certificate may be temporarily extended by the filing of an application with the Secretary at least thirty days prior to its expiration date, and (C) the Secretary may renew a certificate for additional twelve-month periods or for periods in excess of twelve months but not in excess of twenty-four months.

(2) Eligibility for renewals for periods of more than twelve months shall be limited to farm labor contractors who have not been cited for a violation of this Act, or any regulation under this Act, or the Farm Labor Contractor Registration Act of 1963, or any regulation under such Act, during the preceding five years.

*Post*, p. 2600.

#### NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION

SEC. 105. During the period for which the certificate of registration is in effect, each farm labor contractor shall—

29 USC 1815.

(1) provide to the Secretary within thirty days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the certificate of registration whenever the farm labor contractor intends to—

(A) engage in another farm labor contracting activity,

(B) use, or cause to be used, another vehicle than that covered by the certificate to transport any migrant or seasonal agricultural worker, or

(C) use, or cause to be used, another real property or facility to house any migrant agricultural worker than that covered by the certificate.

#### PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

SEC. 106. (a) No farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an

29 USC 1816.

alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(b) A farm labor contractor shall be considered to have complied with subsection (a) if the farm labor contractor demonstrates that the farm labor contractor relied in good faith on documentation prescribed by the Secretary, and the farm labor contractor had no reason to believe the individual was an alien referred to in subsection (a).

## TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

### INFORMATION AND RECORDKEEPING REQUIREMENTS

29 USC 1821.

SEC. 201. (a) Each farm labor contractor, agricultural employer, and agricultural association which recruits any migrant agricultural worker shall ascertain and disclose in writing to each such worker who is recruited for employment the following information at the time of the worker's recruitment:

- (1) the place of employment;
- (2) the wage rates to be paid;
- (3) the crops and kinds of activities on which the worker may be employed;
- (4) the period of employment;
- (5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them;
- (6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and
- (7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a migrant agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place or present to such worker a statement of the terms and conditions, if any, of occupancy of such housing.

(d) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall—

- (1) with respect to each such worker, make, keep, and preserve records for three years of the following information:
  - (A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(e) Each farm labor contractor shall provide to any other farm labor contractor, and to any agricultural employer and agricultural association to which such farm labor contractor has furnished migrant agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (d)(1). The recipient of such records shall keep them for a period of three years from the end of the period of employment.

(f) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any migrant agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), (c), or (d).

(g) The information required to be disclosed by subsections (a) through (c) of this section to migrant agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to migrant agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

#### WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 202. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall pay the wages owed to such worker when due. 29 USC 1822.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any migrant agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any migrant agricultural worker.

#### SAFETY AND HEALTH OF HOUSING

SEC. 203. (a) Except as provided in subsection (c), each person who owns or controls a facility or real property which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. 29 USC 1823.

(b)(1) Except as provided in subsection (c) and paragraph (2) of this subsection, no facility or real property may be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency has certified that the facility

or property meets applicable safety and health standards. No person who owns or controls any such facility or property shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. The receipt and posting of a certificate of occupancy does not relieve any person of responsibilities under subsection (a). Each such person shall retain the original certification for three years and shall make it available for inspection and review in accordance with section 512.

(2) Notwithstanding paragraph (1) of this subsection, if a request for the inspection of a facility or real property is made to the appropriate State or local agency at least forty-five days prior to the date on which it is occupied by migrant agricultural workers and such agency has not conducted an inspection by such date, the facility or property may be so occupied.

(c) This section does not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

### TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

#### INFORMATION AND RECORDKEEPING REQUIREMENTS

29 USC 1831.

SEC. 301. (a)(1) Each farm labor contractor, agricultural employer, and agricultural association which recruits any seasonal agricultural worker (other than day-haul workers described in section 3(10)(A)(ii)) shall ascertain and, upon request, disclose in writing the following information when an offer of employment is made to such worker:

- (A) the place of employment;
- (B) the wage rates to be paid;
- (C) the crops and kinds of activities on which the worker may be employed;
- (D) the period of employment;
- (E) the transportation and any other employee benefit to be provided, if any, and any costs to be charged for each of them;
- (F) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and
- (G) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(2) Each farm labor contractor, agricultural employer, and agricultural association which recruits seasonal agricultural workers through use of a day-haul operation described in section 3(10)(A)(ii) shall ascertain and disclose in writing to the worker at the place of recruitment the information described in paragraph (1).

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and

protections afforded such workers under this Act, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide, upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(d)(1) Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished seasonal agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (c)(1). The recipient of these records shall keep them for a period of three years from the end of the period of employment.

(e) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any seasonal agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), or (c).

(f) The information required to be disclosed by subsections (a) and (b) of this section to seasonal agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

#### WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 302. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall pay the wages owed to such worker when due.

29 USC 1832.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any seasonal agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any seasonal agricultural worker.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND  
SEASONAL AGRICULTURAL WORKERS

## MOTOR VEHICLE SAFETY

29 USC 1841.

SEC. 401. (a)(1) Except as provided in paragraph (2), this section applies to the transportation of any migrant or seasonal agricultural worker.

(2) This section does not apply to the transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

(b)(1) When using, or causing to be used, any vehicle for providing transportation to which this section applies, each agricultural employer, agricultural association, and farm labor contractor shall—

(A) ensure that such vehicle conforms to the standards prescribed by the Secretary under paragraph (2) of this subsection and other applicable Federal and State safety standards,

(B) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle, and

(C) have an insurance policy or a liability bond that is in effect which insures the agricultural employer, the agricultural association, or the farm labor contractor against liability for damage to persons or property arising from the ownership, operation, or the causing to be operated, of any vehicle used to transport any migrant or seasonal agricultural worker.

(2)(A) For purposes of paragraph (1)(A), the Secretary shall prescribe such regulations as may be necessary to protect the health and safety of migrant and seasonal agricultural workers.

(B) To the extent consistent with the protection of the health and safety of migrant and seasonal agricultural workers, the Secretary shall, in promulgating regulations under subparagraph (A), consider, among other factors—

(i) the type of vehicle used,

(ii) the passenger capacity of the vehicle,

(iii) the distance which such workers will be carried in the vehicle,

(iv) the type of roads and highways on which such workers will be carried in the vehicle,

(v) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

(C) Standards prescribed by the Secretary under subparagraph (A) shall be in addition to, and shall not supersede or modify, any standard under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of subtitle IV of title 49, United States Code, or regulations issued thereunder, which is independently applicable to transportation to which this section applies. A violation of any such standard shall also constitute a violation under this Act.

(D) In the event that the Secretary fails for any reason to prescribe standards under subparagraph (A) by the effective date of this Act, the standards prescribed under section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a)), relating to the transporta-

49 USC 10101.

tion of migrant workers, shall, for purposes of paragraph (1)(A), be deemed to be the standards prescribed by the Secretary under this paragraph, and shall, as appropriate and reasonable in the circumstances, apply (i) without regard to the mileage and boundary line limitations contained in such section, and (ii) until superseded by standards actually prescribed by the Secretary in accordance with this paragraph.

(3) The level of the insurance required by paragraph (1)(C) shall be at least the amount currently required for common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of subtitle IV of title 49, United States Code, and regulations prescribed thereunder.

49 USC 10101.

(c) If an agricultural employer, agricultural association, or farm labor contractor is the employer of any migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the requirements of subsection (b)(1)(C) relating to having an insurance policy or liability bond apply:

(1) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(2) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(d) The Secretary shall, by regulations promulgated in accordance with section 511 not later than the effective date of this Act, prescribe the standards required for the purposes of implementing this section. Any subsequent revision of such standards shall also be accomplished by regulation promulgated in accordance with such section.

#### CONFIRMATION OF REGISTRATION

SEC. 402. No person shall utilize the services of any farm labor contractor to supply any migrant or seasonal agricultural worker unless the person first takes reasonable steps to determine that the farm labor contractor possesses a certificate of registration which is valid and which authorizes the activity for which the contractor is utilized. In making that determination, the person may rely upon either possession of a certificate of registration, or confirmation of such registration by the Department of Labor. The Secretary shall maintain a central public registry of all persons issued a certificate of registration.

29 USC 1842.

#### INFORMATION ON EMPLOYMENT CONDITIONS

SEC. 403. Each farm labor contractor, without regard to any other provisions of this Act, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 201(b) and 301(b) of this Act.

29 USC 1843.



## COMPLIANCE WITH WRITTEN AGREEMENTS

29 USC 1844.

SEC. 404. (a) No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under this Act.

(b) Written agreements under this section do not relieve a person of any responsibility that such person would otherwise have under this Act.

## TITLE V—GENERAL PROVISIONS

## PART A—ENFORCEMENT PROVISIONS

## CRIMINAL SANCTIONS

29 USC 1851.

SEC. 501. (a) Any person who willfully and knowingly violates this Act or any regulation under this Act shall be fined not more than \$1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this Act or any regulation under this Act, the defendant shall be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

(b) If a farm labor contractor who commits a violation of section 106 has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or is a farm labor contractor whose certificate has been suspended or revoked, the contractor shall, upon conviction, be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

## JUDICIAL ENFORCEMENT

29 USC 1852.

SEC. 502. (a) The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this Act, or any regulation under this Act, has been violated.

(b) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act, but all such litigation shall be subject to the direction and control of the Attorney General.

## ADMINISTRATIVE SANCTIONS

29 USC 1853.

SEC. 503. (a)(1) Subject to paragraph (2), any person who commits a violation of this Act or any regulation under this Act, may be assessed a civil money penalty of not more than \$1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this Act and with comparable requirements of the Farm Labor Contractor Registration Act of 1963, and with regulations promulgated under such Acts, and (B) the gravity of the violation.

*Post*, p. 2600.

Hearing.

(b)(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues

shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

28 USC 1291 *et seq.*

(d) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(e) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

#### PRIVATE RIGHT OF ACTION

SEC. 504. (a) Any person aggrieved by a violation of this Act or any regulation under this Act by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

29 USC 1854.

(b) Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

(c)(1) If the court finds that the respondent has intentionally violated any provision of this Act or any regulation under this Act, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to \$500 per plaintiff per violation, or other equitable relief, except that (A) multiple infractions of a single provision of this Act or of regulations under this Act shall constitute only one violation for purposes of determining the amount of statutory damages due a plaintiff; and

(B) if such complaint is certified as a class action, the court shall award no more than the lesser of up to \$500 per plaintiff per violation, or up to \$500,000 or other equitable relief.

(2) In determining the amount of damages to be awarded under paragraph (1), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

28 USC 1291 *et seq.*

(3) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

#### DISCRIMINATION PROHIBITED

29 USC 1855.

SEC. 505. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

Investigation.

(b) A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

#### WAIVER OF RIGHTS

29 USC 1856.

SEC. 506. Agreements by employees purporting to waive or to modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this Act.

#### PART B—ADMINISTRATIVE PROVISIONS

##### RULES AND REGULATIONS

29 USC 1861.

SEC. 511. The Secretary may issue such rules and regulations as are necessary to carry out this Act, consistent with the requirements of chapter 5 of title 5, United States Code.

5 USC 500 *et seq.*

##### AUTHORITY TO OBTAIN INFORMATION

29 USC 1862.

SEC. 512. (a) To carry out this Act the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate, and in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such infor-

mation to determine compliance with this Act, or regulations prescribed under this Act.

(b) The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this Act, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) It shall be a violation of this Act for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to this Act during the performance of such duties.

#### AGREEMENTS WITH FEDERAL AND STATE AGENCIES

SEC. 513. (a) The Secretary may enter into agreements with Federal and State agencies (1) to use their facilities and services, (2) to delegate, subject to subsection (b), to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this Act, and (3) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under clause (1) or (2) of this section. 29 USC 1863.

(b) Any delegation to a State agency pursuant to subsection (a)(2) shall be made only pursuant to a written State plan which—

(1) shall include a description of the functions to be performed, the methods of performing such functions, and the resources to be devoted to the performance of such functions; and

(2) provides assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (1) and that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department of Labor.

#### PART C—MISCELLANEOUS PROVISIONS

##### STATE LAWS AND REGULATIONS

SEC. 521. This Act is intended to supplement State law, and compliance with this Act shall not excuse any person from compliance with appropriate State law and regulation. 29 USC 1871.

##### TRANSITION PROVISION

SEC. 522. The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this Act, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm 29 USC 1872.  
*Post*, p. 2600.

*Infra.*

Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this Act.

**REPEALER**

**SEC. 523.** The Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), is repealed.

**EFFECTIVE DATE**

29 USC 1801  
note.

**SEC. 524.** The provisions of this Act shall take effect ninety days from the date of enactment, and shall be classified to title 29, United States Code.

Approved January 14, 1983.

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**LEGISLATIVE HISTORY—H.R. 7102:**

HOUSE REPORT No. 97-885 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 29, considered and passed House.

Dec. 19, considered and passed Senate, amended.

Dec. 20, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 2 (1983):

Jan. 14, Presidential statement.

Public Law 97-471  
97th Congress

An Act

To modify the judicial districts of West Virginia, and for other purposes.

Jan. 14, 1983

[S. 3105]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended—*

Judicial districts  
of West Virginia,  
modification.

(1) in subsection (a) by—

(A) striking out “, Wirt, and Wood”;

(B) inserting “Braxton,” after “Berkeley,”;

(C) inserting “Pocahontas,” after “Pleasants,”;

(D) inserting “Webster, and” after “Upshur,”; and

(E) by striking out “Parkersburg,”; and

(2) in subsection (b) by—

(A) striking out “Braxton,” “Pocahontas,” and “Webster,”; and

(B) inserting “Wirt, Wood,” after “Wayne,”; and

(C) striking out “and Lewisburg.” and inserting in lieu thereof “Lewisburg, and Parkersburg.”.

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled “An Act to provide for the appointment of additional district and circuit judges and for other purposes”, approved October 20, 1978 (92 Stat. 1632; 28 U.S.C. 133 note), shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

28 USC 133 note.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

“West Virginia:	
“Northern .....	1
“Southern .....	3
“Northern and Southern .....	1”
and inserting in lieu thereof the following:	
“West Virginia:	
“Northern .....	2
“Southern .....	4”

Approved January 14, 1983.

LEGISLATIVE HISTORY—S. 3105:

CONGRESSIONAL RECORD, Vol. 128 (1982):  
    Dec. 15, considered and passed Senate.  
    Dec. 20, considered and passed House.

Public Law 97-472  
97th Congress

Joint Resolution

To designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America".

Jan. 14, 1983  
[S.J. Res. 260]

Whereas October 6, 1983, is the three hundredth anniversary of German settlement in America at Philadelphia, Pennsylvania; Whereas such date marks the beginning of the immeasurable human, economic, political, social, and cultural contributions to this country by millions of German immigrants over the past three centuries;

Whereas today the United States of America and the Federal Republic of Germany continue their close friendship based on the common values of democracy, guaranteed individual liberties, tolerance of personal differences, and opposition to totalitarianism; and

Whereas it is fitting that this historic event be commemorated in such a manner as to celebrate German-American friendship and to focus on the democratic values that bind us together: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing January 1, 1983, and ending December 31, 1983, is hereby designated as the "Tricentennial Anniversary Year of German Settlement in America", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.*

Tricentennial  
Anniversary  
Year of German  
Settlement in  
America.

SEC. 2. As a concrete demonstration of our commitment to the enduring United States-German relationship, and as an act of celebration to inaugurate the Tricentennial Year, we express our strong support for the President's Youth Exchange Initiative, and especially the concept of a United States-German teenage exchange sponsored by the Members of the United States Congress and the West German Bundestag, and emphasizing home stays with families.

SEC. 3. (a) There is hereby established a Commission to be known as the Presidential Commission for the German-American Tricentennial (hereinafter referred to as the "Commission") to plan, encourage, develop, and coordinate the commemoration of the German-American Tricentennial. In preparing its plans and carrying out its program, the Commission shall give due consideration to any related plans and programs developed by State, local, private, and foreign groups.

Presidential  
Commission for  
the German-  
American  
Tricentennial.  
Establishment.

(b) The Commission shall be composed of not more than 40 members, appointed by the President, ten of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and ten of whom shall be appointed upon the recommendation of the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate. One member shall be the Chief Justice of the United States



or his designee. The members shall be from the public and private sectors and the President shall designate a member from the private sector as Chairman. The members of the Commission shall receive no compensation for their services as such but may be allowed necessary travel expenses, as authorized by law, to carry out Commission activities.

(c) The Commission is authorized to encourage the participation of, and receive donations of money, property and personal services from, public and private organizations and individuals to assist the Commission in carrying out its responsibilities. The Director of the United States Information Agency is authorized to provide administrative services and staff support to the Commission, as necessary, for which reimbursement shall be made from funds of the Commission under section 686 of title 31, United States Code, in such amounts as may be agreed upon by the Chairman of the Commission and the Director. The heads of other Executive agencies and departments are also authorized and requested to cooperate with and assist the Commission in fulfilling its responsibilities.

(d) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable and to appoint such advisory committees as it deems necessary. The Commission may also procure temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code. The Commission shall have authority to make contracts and grants as necessary and appropriate to carry out its program.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) All expenditures of the Commission shall be made from donated funds.

(g) A report of the Commission's activities shall be made to Congress no later than January 31, 1984, upon which date the Commission shall terminate.

Approved January 14, 1983.

Report to  
Congress;  
termination.

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LEGISLATIVE HISTORY—S.J. Res. 260:

CONGRESSIONAL RECORD, Vol. 128 (1982):

Oct. 1, considered and passed Senate.

Dec. 17, considered and passed House, amended.

Dec. 19, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 2 (1983):

Jan. 14, Presidential statement.

Public Law 97-473  
97th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes.

Jan. 14, 1983  
[H.R. 5470]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. AMENDMENT OF 1954 CODE.

Whenever in title I or II an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Damages for personal injury or sickness, tax treatment of periodic payments.

26 USC 1 *et seq.*

## TITLE I—INCOME TAX PROVISIONS

### SEC. 101. TREATMENT OF RECIPIENT OF SETTLEMENT PERIODIC PAYMENTS.

(a) TREATMENT OF RECIPIENT.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended by striking out “whether by suit or agreement” and inserting in lieu thereof “whether by suit or agreement and whether as lump sums or as periodic payments”.

26 USC 104.

(b) TREATMENT OF ASSIGNEE-PAYOR.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

26 USC 131.

#### “SEC. 130. CERTAIN PERSONAL INJURY LIABILITY ASSIGNMENTS.

26 USC 130.

“(a) IN GENERAL.—Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

“(b) TREATMENT OF QUALIFIED FUNDING ASSET.—In the case of any qualified funding asset—

“(1) the basis of such asset shall be reduced by the amount excluded from gross income under subsection (a) by reason of the purchase of such asset, and

“(2) any gain recognized on a disposition of such asset shall be treated as ordinary income.

“(c) QUALIFIED ASSIGNMENT.—For purposes of this section, the term ‘qualified assignment’ means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness—

“(1) if the assignee assumes such liability from a person who is a party to the suit or agreement, and

“(2) if—

“(A) such periodic payments are fixed and determinable as to amount and time of payment,

“(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

“(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

“(D) the assignee’s obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

“(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

“(d) **QUALIFIED FUNDING ASSET.**—For purposes of this section, the term ‘qualified funding asset’ means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if—

“(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

“(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment, and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

“(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

“(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment.”

(2) **CONFORMING AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 130 and inserting in lieu thereof the following new items:

“Sec. 130. Certain personal injury liability assignments.

“Sec. 131. Cross references to other Acts.”

26 USC 130 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after December 31, 1982.

#### **SEC. 102. EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS.**

(a) **IN GENERAL.**—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by section 101(b), is amended by redesignating section 131 as section 132 and by inserting after section 130 the following new section:

*Ante*, p. 2605.

26 USC 132.

26 USC 131.

#### **“SEC. 131. CERTAIN FOSTER CARE PAYMENTS.**

“(a) **GENERAL RULE.**—Gross income shall not include amounts received by a foster parent during the taxable year as qualified foster care payments.

“(b) **QUALIFIED FOSTER CARE PAYMENT DEFINED.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified foster care payment’ means any amount—

“(A) which is paid by a State or political subdivision thereof or by a child-placing agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

“(B) which is—

“(i) paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent’s home, or

“(ii) a difficulty of care payment.

“(2) **QUALIFIED FOSTER CHILD.**—The term ‘qualified foster child’ means any individual who—

“(A) has not attained age 19, and

“(B) is living in a foster family home in which such individual was placed by—

“(i) an agency of a State or political subdivision thereof, or

“(ii) an organization which is licensed by a State (or political subdivision thereof) as a child-placing agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

“(c) **DIFFICULTY OF CARE PAYMENTS.**—For purposes of this section—

“(1) **DIFFICULTY OF CARE PAYMENTS.**—The term ‘difficulty of care payments’ means payments to individuals which are not described in subsection (b)(1)(B)(i), and which—

“(A) are compensation for providing the additional care of a qualified foster child which is—

“(i) required by reason of a physical, mental, or emotional handicap of such child with respect to which the State has determined that there is a need for additional compensation, and

“(ii) provided in the home of the foster parent, and

“(B) are designated by the payor as compensation described in subparagraph (A).

“(2) **LIMITATION BASED ON NUMBER OF CHILDREN.**—In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than 10 qualified foster children.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 131 and by inserting in lieu thereof the following items:

“Sec. 131. Certain foster care payments.

“Sec. 132. Cross references to other Acts.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

26 USC 131 note.

## TITLE II—TAX STATUS OF INDIAN TRIBAL GOVERNMENTS

Indian Tribal Governmental Tax Status Act of 1982.

### SEC. 201. SHORT TITLE.

26 USC 1 note.

This title may be cited as the “Indian Tribal Governmental Tax Status Act of 1982”.

**SEC. 202. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.**

(a) **GENERAL RULE.**—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

**“Subchapter C—Provisions Affecting More than One Subtitle**

“Sec. 7871. Indian tribal governments treated as States for certain purposes.

26 USC 7871.

**“SEC. 7871. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.**

“(a) **GENERAL RULE.**—An Indian tribal government shall be treated as a State—

“(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

“(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

“(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

“(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

“(2) subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

“(A) chapter 31 (relating to tax on special fuels),

“(B) chapter 32 (relating to manufacturers excise taxes),

“(C) subchapter B of chapter 33 (relating to communications excise tax), or

“(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

“(3) for purposes of section 164 (relating to deduction for taxes);

“(4) subject to subsection (c), for purposes of section 103 (relating to interest on certain governmental obligations);

“(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

“(6) for purposes of—

“(A) section 37(e)(9)(A) (relating to certain public retirement systems),

“(B) section 41(c)(4) (defining State for purposes of credit for contribution to candidates for public offices),

“(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants), and

“(D) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities); and

“(7) for purposes of—

“(A) chapter 41 (relating to tax on excess expenditures to influence legislation), and

“(B) subchapter A of chapter 42 (relating to private foundations).

“(b) **ADDITIONAL REQUIREMENTS FOR EXCISE TAX EXEMPTIONS.**—Paragraph (2) of subsection (a) shall apply with respect to any transaction only if, in addition to any other requirement of this title

26 USC 4041 *et seq.*

26 USC 4061 *et seq.*

26 USC 4251.

26 USC 4481.

26 USC 4911 *et seq.*

26 USC 4940.

applicable to similar transactions involving a State or political subdivision thereof, the transaction involves the exercise of an essential governmental function of the Indian tribal government.

“(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT BONDS.—

“(1) IN GENERAL.—Subsection (a) of section 103 shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

“(2) NO EXEMPTION FOR CERTAIN PRIVATE-ACTIVITY BONDS.—Subsection (a) of section 103 shall not apply to any of the following issued by an Indian tribal government (or subdivision thereof):

“(A) An industrial development bond (as defined in section 103(b)(2)).

“(B) An obligation described in section 103(l)(1)(A) (relating to scholarship bonds).

“(C) A mortgage subsidy bond (as defined in paragraph (1) of section 103A(b) without regard to paragraph (2) thereof).

“(d) TREATMENT OF SUBDIVISIONS OF INDIAN TRIBAL GOVERNMENTS AS POLITICAL SUBDIVISIONS.—For the purposes specified in subsection (a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a State if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.”

(b) CONFORMING AMENDMENTS RELATING TO CROSS REFERENCES.—

(1) Subsection (d) of section 41 is amended to read as follows: 26 USC 41.

“(d) CROSS REFERENCES.—

“(1) For disallowance of credits to estates and trusts, see section 642(a)(2).

“(2) For treatment of Indian tribal governments as States (and the political subdivisions of Indian tribal governments as political subdivisions of States), see section 7871.”

(2) Subsection (m) of section 103 is amended to read as follows: 26 USC 103.

“(m) CROSS REFERENCES.—

“For provisions relating to the taxable status of—

“(1) Certain obligations issued by Indian tribal governments (or their subdivisions), see section 7871.

“(2) Exempt interest dividends of regulated investment companies, see section 852(b)(5)(B).

“(3) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

“(4) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1919 (48 U.S.C. 1403).

“(5) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g)).”

(3) Section 164(f) is amended by adding at the end thereof the following new paragraph. 26 USC 164.

“(3) For treatment of taxes imposed by Indian tribal governments (or their subdivisions), see section 7871.”

(4) Section 170(k) is amended by adding at the end thereof the following new paragraph: 26 USC 170.

- 26 USC 2055. “(8) For charitable contributions to or for the use of Indian tribal governments (or their subdivisions), see section 7871.”
- (5) Section 2055(f) is amended by adding at the end thereof the following new paragraph:
- 26 USC 2106. “(11) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871.”
- (6) Subparagraph (F) of section 2106(a)(2) is amended to read as follows:
- “(F) CROSS REFERENCES.—
- “(i) For option as to time for valuation for purposes of deduction under this section, see section 2032.
- “(ii) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f).
- “(iii) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871.”
- 26 USC 2522. (7) Subsection (d) of section 2522 is amended to read as follows:
- “(d) CROSS REFERENCES.—
- “(1) For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain bequests, see section 2055(f).
- “(2) For treatment of gifts to or for the use of Indian tribal governments (or their subdivisions), see section 7871.”
- 26 USC 4227. (8) Section 4227 is amended to read as follows:
- “SEC. 4227. CROSS REFERENCES.
- “(1) For exemption for a sale to an Indian tribal government (or its subdivision) for the exclusive use of an Indian tribal government (or its subdivision), see section 7871.
- “(2) For credit for taxes on tires and tubes, see section 6416(c).”
- (9) The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4227 and inserting in lieu thereof the following new item:
- “Sec. 4227. Cross references.”
- 26 USC 4484. (10) Section 4484 is amended to read as follows:
- “SEC. 4484. CROSS REFERENCES.
- “(1) For penalties and administrative provisions applicable to this subchapter, see subtitle F.
- “(2) For exemption for uses by Indian tribal governments (or their subdivisions), see section 7871.”
- (11) The table of sections for subchapter D of chapter 36 is amended by striking out the item relating to section 4484 and inserting in lieu thereof the following new item:
- “Sec. 4484. Cross references.”
- 26 USC 6420, 6421. (12) Sections 6420(h) and 6421(j) are each amended by adding at the end thereof the following new paragraph:
- “(4) For treatment of an Indian tribal government as a State and a subdivision of an Indian tribal government as a political subdivision of a State, see section 7871.”
- 26 USC 6424, 6427. (13) Sections 6424(g) and 6427(k) are each amended by adding at the end thereof the following new paragraph:
- “(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.”
- (c) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:
- “Subchapter C. Provisions affecting more than one subtitle.”

**SEC. 203. DEFINITION OF INDIAN TRIBAL GOVERNMENT.**

Subsection (a) of Section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

*Ante*, p. 2406.  
26 USC 7701.

**“(40) INDIAN TRIBAL GOVERNMENT.—**

**“(A) IN GENERAL.—**The term ‘Indian tribal government’ means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

**“(B) SPECIAL RULE FOR ALASKA NATIVES.—**No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.”

*Ante*, p. 2608.  
*Ante*, p. 2607.

**SEC. 204. EFFECTIVE DATES.**

26 USC 7871  
note.

The amendments made by this title—

(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1954 (other than section 103 thereof), shall apply to taxable years beginning after December 31, 1982, and before January 1, 1985,

26 USC 1 *et seq.*

(2) insofar as they relate to section 103 of such Code, shall apply to obligations issued after December 31, 1982, and before January 1, 1985,

(3) insofar as they relate to chapter 11 of such Code, shall apply to estates of decedents dying after December 31, 1982, and before January 1, 1985,

26 USC 2001 *et seq.*

(4) insofar as they relate to chapter 12 of such Code, shall apply to gifts made after December 31, 1982, and before January 1, 1985, and

26 USC 2501 *et seq.*

(5) insofar as they relate to taxes imposed by subtitle D of such Code, shall take effect on January 1, 1983, and shall cease to apply at the close of December 31, 1984.

26 USC 4041.

## **TITLE III—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

**SEC. 301. TREATMENT OF HAWAII PREPAID HEALTH CARE ACT UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) **EXEMPTION FROM PREEMPTION.—**Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

**“(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).**

**“(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a)—**

**“(i) any State tax law relating to employee benefit plans, or**



“(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

“(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after the date of the enactment of this paragraph), but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts.”.

29 USC 1136.

29 USC 1144  
note.

29 USC 1144  
note.

(b) TREATMENT OF OTHER STATE LAWS.—The amendment made by this section shall not be considered a precedent with respect to extending such amendment to any other State law.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 302. TREATMENT OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) DEFINITION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), relating to definitions, is amended by adding at the end thereof the following new paragraph:

“(40)(A) The term ‘multiple employer welfare arrangement’ means an employee welfare benefit plan, or any other arrangement (other than an employee welfare benefit plan), which is established or maintained for the purpose of offering or providing any benefit described in paragraph (1) to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that such term does not include any such plan or other arrangement which is established or maintained—

“(i) under or pursuant to one or more agreements which the Secretary finds to be collective bargaining agreements, or

“(ii) by a rural electric cooperative.

“(B) For purposes of this paragraph—

“(i) two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group,

“Control  
group.”

“(ii) the term ‘control group’ means a group of trades or businesses under common control,

“(iii) the determination of whether a trade or business is under ‘common control’ with another trade or business shall be determined under regulations of the Secretary applying principles similar to the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent, and

29 USC 1301.

“Rural electric  
cooperative.”  
26 USC 501.

“(iv) the term ‘rural electric cooperative’ means—

“(I) any organization which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

“(II) any organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations described in subclause (I).” 26 USC 501.

(b) **LIMITATION ON PREEMPTION OF STATE LAW WITH REGARD TO WELFARE PLANS WHICH ARE MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.**—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 301 of this Act, is further amended by adding at the end thereof the following new paragraph:

“(6)(A) Notwithstanding any other provision of this section—

“(i) in the case of an employee welfare benefit plan which is a multiple employer welfare arrangement and is fully insured (or which is a multiple employer welfare arrangement subject to an exemption under subparagraph (B)), any law of any State which regulates insurance may apply to such arrangement to the extent that such law provides—

“(I) standards, requiring the maintenance of specified levels of reserves and specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and

“(II) provisions to enforce such standards, and

“(ii) in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement, in addition to this title, any law of any State which regulates insurance may apply to the extent not inconsistent with the preceding sections of this title.

“(B) The Secretary may, under regulations which may be prescribed by the Secretary, exempt from subparagraph (A)(ii), individually or by class, multiple employer welfare arrangements which are not fully insured. Any such exemption may be granted with respect to any arrangement or class of arrangements only if such arrangement or each arrangement which is a member of such class meets the requirements of section 3(l) and section 4 necessary to be considered an employee welfare benefit plan to which this title applies.

29 USC 1002,  
1003.

“(C) Nothing in subparagraph (A) shall affect the manner or extent to which the provisions of this title apply to an employee welfare benefit plan which is not a multiple employer welfare arrangement and which is a plan, fund, or program participating in, subscribing to, or otherwise using a multiple employer welfare arrangement to fund or administer benefits to such plan's participants and beneficiaries.

“(D) For purposes of this paragraph, a multiple employer welfare arrangement shall be considered fully insured only if the terms of the arrangement provide for benefits the amount of all of which the

29 USC 1002  
note.

Secretary determines are guaranteed under a contract, or policy of insurance, issued by an insurance company, insurance service, or insurance organization, qualified to conduct business in a State.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

Approved January 14, 1983.

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**LEGISLATIVE HISTORY—H.R. 5470:**

**HOUSE REPORTS:** No. 97-832 (Comm. on Ways and Means) and No. 97-984 (Comm. of Conference).

**SENATE REPORT** No. 97-646 (Comm. on Finance).

**CONGRESSIONAL RECORD**, Vol. 128 (1982):

Sept. 20, considered and passed House.

Oct. 1, considered and passed Senate, amended.

Dec. 13, House concurred in Senate amendment and in another with an amendment.

Dec. 21, House and Senate agreed to conference report.